



Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-131
Regulation title	Standards for Licensed Private Child-Placing Agencies
Action title	Adopt New Standards for Licensed Private Child-Placing Agencies
Date this document prepared	4/14/11

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

This planned regulatory action is a joint action to repeal the existing regulation, 22 VAC 40-130, and establish a new regulation, 22 VAC 40-131, for licensed private child-placing agencies. The purpose of the regulatory action is to protect children under the age of 18, for whom home-placements are pending or home-placements have been made in approved foster care homes, treatment foster care homes, short-term foster care homes and adoptive-homes up until the time the adoption is finalized by the court.

This new regulation is intended to: improve clarity within the language of the regulation; incorporate improvements in the language and reflect current federal and state law; align home approvals, supervision, and monitoring practices and responsibilities of private child-placing agencies with public child-placing agencies; relieve intrusive and burdensome language; and provide greater protection for children in care. This regulation will create consistency between providers approved by licensed child-placing agencies and local departments: an action step required by federal regulations, identified in the federal Child and Family Services Review and included in the department's Performance Improvement Plan.

Major components of the regulation include consistency with 22 VAC 40-211, Resource, Foster and Adoptive Family Home Approval Standards for public child-placing agencies including: definitions; home

provider training mandates; home study requirements, streamlining the provider approval process, and documentation protocols; safety of the provider's home environment; and background check requirements. The regulation was reorganized and categorized based on provider recommendations and, for the purpose of increasing provider compliance.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.

The final regulation Standards for Licensed Private Child-Placing Agencies (22 VAC 40-131) was approved by the State Board of Social Services on April 20, 2011.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Sections 63.2-217 and 63.2-1734 of the Code of Virginia (Code) requires the State Board of Social Services (Board) to adopt regulations necessary or desirable to carry out the provisions of Title 63.2 of the Code and to include in the regulation provisions to ensure that activities, services and facilities provided by licensees are conducive to the welfare of the children under custody or control of the licensee. Section 63.2-1701 of the Code provides legal authority to the Board for licensure of child-placing agencies.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The proposed regulation provides criteria and requirements for the Department of Social Services (department) to evaluate the licensees to ensure that activities, services and facilities provided by licensees are conducive to the welfare of the children under custody or control of the licensee and criteria for the licensees to approve, evaluate, and re-approve family home providers.

There have been three separate failed attempts to adopt a new replacement regulation for the licensure of private child-placing agencies since 1989. The existing regulation, 22VAC 40-130 was effective August 1989 and since that time there have been many changes in federal and state law and practice, including the Virginia's Children's Services System Transformation, that are not included in the current regulation. Repeal of the existing regulation and adoption of a new regulation will allow greater flexibility to adjust the structure, format, and language. This flexibility will allow for clarified language to improve understanding and interpretation leading to enhanced compliance and enforcement and to the creation of requirements conducive to greater protection of the health, safety and welfare of children in care.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Substantive revisions include: aligning requirements for licensee approval of, provision of services to, and monitoring of foster care homes, adoptive homes, and independent living arrangements with the Code of Virginia; adding definitions consistent with the Code of Virginia and other social services regulations; updating sponsor-types with legal entities recognized by the State Corporation Commission and including information required as part of the application for approval process; requiring the licensee to develop and implement written operational policies and procedures to include prohibition of corporal punishment and measures to ensure protections for children in placements; adding a requirement for developing and implementing a program evaluation and improvement plan; making home-study components, provider approval and home monitoring requirements consistent for provider home-types and consistent with other social services regulations; making home environment assessment components consistent with other social services regulations; adding requirements for provider training and development consistent with other social services regulations; requiring custodial agencies to enroll children in school; requiring the licensee to report serious incidents, injuries, or accidents that happen to the child; requiring visitation and continuing contact with the child consistent with other social services regulations; incorporating requirements of Department of Medical Assistance Services for treatment foster care; adding requirements for developing and implementing record-keeping practices and record storage for all types of files; adding a requirement for encouraging and training providers in positive behavior support techniques to protect and keep the child safe while helping the child learn positive behaviors; adding requirements for independent living arrangements consistent with Code of Virginia and other social services regulations and policy; and adding applicable requirements of the Code of Virginia and Hague Adoption Convention for adoption and inter-country adoption.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*
- If there are no disadvantages to the public or the Commonwealth, please indicate.*

This regulation will create consistency between providers approved by licensed child-placing agencies and local departments: an action step required by federal regulations, identified in the federal Child and Family Services Review and included in the department's Performance Improvement Plan. The regulation addresses provisions of applicable child-placing federal and state law and practice since 1989, including the Virginia's Children's Services System Transformation.

The intent of enhanced regulation is to protect the health, safety and welfare of the children by: strengthening and clarifying requirements for private licensed child-placing agencies and the providers who are approved by them. It includes an organization recommended by the members of the regulation revision committee, a committee which was formed and utilized per public participation guidelines and whose membership included private and public child-placing stakeholders and stakeholders from several

public agencies. It is anticipated that the regulation organization will assist licensees in efforts of regulation compliance by making the standards more user-friendly.

This proposed regulatory action poses no disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
22VAC40-131-10. Definitions.	The following new terms and their meanings are added in order to clarify their use in the body of the regulation: adoptive parent, adoptive placement, adult, annual, applicant, background checks, behavior support, birth parent, caretaker, career and technical education, case management, casework staff, child's family, dual approval process, emergency placement, employee, foster care placement, foster care services, foster parent, independent living services, in-service training, intercountry placement, local board, local department, mental abuse, mutual selection, parent, parental placement, permanent entrustment agreement, physical abuse, physical neglect, physical restraint, placing agency, pre-service training, provider, records, resource parent, seclusion, serious incident reports, services plan, sexual abuse, short-term foster care, special needs, treatment, treatment foster care,	<p>The definition of applicant, mutual selection, serious incident reports, and treatment team have been changed.</p> <p>In the definitions of applicant and mutual selection, the words 'independent living arrangement' were removed.</p> <p>The definition of serious incident reports has been expanded to include incidents involving criminal activity and incidents requiring police intervention.</p> <p>In the treatment team definition, 'the licensee' has been removed.</p>	<p>Changes made for clarity.</p> <p>Independent living arrangement is not a person, so it should not be included as a type of applicant or in the definition of mutual selection.</p> <p>It is important to know about serious incidents involving criminal activity and requiring police intervention.</p> <p>This language is redundant and not necessary.</p>

	<p>treatment foster parent, treatment team, and youth.</p> <p>The definition for foster care was replaced with foster care placement and foster care services.</p>		
22VAC40-131-30. Sponsorship.	This section requires that each child-placing agency has a sponsor.	Strike the paragraph under 22 VAC40-131-30 3 b; 4 c; and 5 c. This requirement refers to an executive director. Requirements for an executive director are found elsewhere in the regulation.	Paragraph is redundant to 22 VAC40-131-140 C in this regulation.
22VAC40-131-40 G. Licensee.	This section requires the licensee to develop an operating budget.	Language changed to ensure the licensee develops a budget for a period of twelve months of operation.	Change made to return to the content of the current regulation, with language revised for clarity.
22VAC40-131-70 A. Conflict of Interest.	This section specifies who can serve on the placing agency's board of directors and prohibits the licensee allowing board members who are applicants for adoption or recipients for adoption services.	Change was made in 22 VAC40-131-70 A 2 adding 'until the final order of adoption is entered.'	This allows for parents with experience in adoption to participate in board activities. Change reflects the language in the current regulation, 22 VAC40-130-140 A.
22VAC40-131-170 B. Program Statement and Description	This section prohibits certain acts of discrimination to deny or delay a child's placement or deny an opportunity to apply to be a foster or adoptive parent.	Change was made to 22 VAC40-131-170 B. Language referencing gender, age, religion, political beliefs, sexual orientation, disability and family status was removed. The words 'to apply' in 22 VAC40-131-170 B 2 were removed.	Change made to be consistent with federal law- 42 USC 671.
22VAC40-131-180 J. Home Study Requirements	This section describes the home study narrative requirements.	In referring to medical examinations, the language 'as described in 22 VAC40-131-290 L-M.' was added to 22 VAC40-131-180 J 2 e 2.	Change made for clarity to remind licensees of requirements for medical examinations in 22 VAC40-131-290 L-M to improve regulation compliance.
22VAC40-131-200 A, B, G Initial Approval or Disapproval of Home	These sections discuss requirements prior to placement of a child in a home or living arrangement.	'Or living arrangement' language was struck from 22 VAC40-131-200 A and 'or independent living arrangement' was struck from 22 VAC40-131-200 B and G 1.	Change made for clarity; The requirements in this section do not apply to independent living arrangements.
22VAC40-131-200 A 2 and H 1 Initial Approval or	This section requires orientation and on-going training for providers following approval.	Language requiring 'orientation' was removed from 22 VAC40-131-200 H 1 and placed in 22 VAC40-131-200 A 2.	Change was made for clarity and to allow the orientation training to occur prior to the

Disapproval of Home			approval of the provider.
22VAC40-131-210 A Provider training and development	This section describes requirements of pre-service training for each newly approved provider.	Short-term foster families are no longer required to complete this training. Language was made to require the training to be consistent with the licensee's program statement and description required by 22VAC40-131-170.A and to include, as applicable, the listed core competencies.	This change was made for clarity and to allow agencies to develop pre-service training based on their program statement and description.
22VAC40-131-210 A Provider training and development	This section describes the agency's plan of pre-service training for each newly approved provider.	22VAC40-131-170 A 22 was added to require pre-service training on methods of less intrusive behavior support, crisis management techniques and physical restraint methods approved by the licensee.	This language is required in 22VAC40-131-90 G 3 and should be covered in provider pre-service training.
22VAC40-131-230 E Monitoring and re-evaluation of provider homes.	This section discusses the re-evaluation process for approving a home.	In reference to tuberculosis screenings, language was added to 22VAC40-131-230 E 4 to reference 22VAC40-131-290 K.	Reference added for clarity about required tuberculosis screenings to increase regulation compliance.
22VAC40-131-250 A Intake, Acceptance and placement	This section discusses requirements prior to placing a child.	The language 'in foster care, short-term foster care, or treatment foster care' was removed from the first sentence.	Correction was made for clarity, these words are not necessary.
22VAC40-131-250 E Intake, Acceptance and placement	This section discusses written requirements prior to placing a child.	Language requiring only one parent to sign the entrustment was added to 22VAC40-131-250 E 2. Due to lettering error, E is changed to D.	Change made to be consistent with § 63.2-1817 of the Code of Virginia (Code).
22VAC40-131-250 S Intake, Acceptance and placement	This section defines requirements when a licensee accepts a child for placement from a parent or other individual having custody.	The word 'assessment' is struck from 22VAC40-131-250 S 3. S is changed to R due to lettering error.	Correction was made for clarity.
22VAC40-131-270 B, C Interstate placement	These sections require approval of the Interstate Compact on the Placement of Children before an out of state child is placed in a Virginia home.	Written approval from the Interstate Compact on the Placement of Children is not required prior to placement, but it must be maintained in the child's file.	The child can be placed with verbal approval from the Interstate Compact on the Placement of Children, but written approval must be obtained and maintained in the child's file.
22VAC40-	This section describes	The term 'handicapping	Change made to use

131-290 C Medical, dental and psychiatric examinations and care	requirements of the child's medical report	conditions' was removed.	currently accepted terms.
22VAC40-131-300 School enrollment	This section describes school enrollment requirements for children in care.	22VAC40-131-300 C was added: "For school-aged children in foster care, the licensee shall collaborate and work cooperatively with the local department and the local education authority to maintain educational stability for each child. Cooperative efforts shall be documented in the child's record."	This language was added to comply with federal law, Public Law 110-351.
22VAC40-131-330 F Visitation and continuing contact with children	This section requires that more than half of the contacts made with the child shall be conducted in the placement setting.	The proposed language was removed. This language was added: "The licensee shall have at least one face-to-face contact with the child in the placement setting every 60 days."	The original requirement only applied to local agency social workers, not the licensed child placing agency. The language in the proposed regulation is now the same as the language in the current regulation.
22VAC40-131-330 K Visitation and continuing contact with children	This section requires the licensee to make certain notifications if a permanent move is made from one foster home to another.	The word 'permanent' is struck.	Local departments of social services must be made aware of any move of a child. Local departments of social services must know where the child is placed at all times.
22VAC40-131-370 H Case Record requirements	This section describes requirements for active and closed case files.	The 'or' in 22VAC40-131-370 H 3 is removed and replaced with 'and'.	All of these elements are requirements.
22VAC40-131-370 M Case Record requirements	This section describes documentation requirements for home provider's files.	In 22VAC40-131-370 M 1, the language 'in a format required by the department' is removed.	The department does not have an application format.
22VAC40-131-460 B Children placed in treatment foster care	This section adds requirements that must be met when providing treatment foster care.	In 22VAC40-131-460 B 4 c, the first 'and' is removed and 'or' is added.	Language changed for clarity, as having both full time staff and part time staff is not required.
22VAC40-131-490 E Adoption counseling and services for birth parents	This section describes the process for securing termination of parental rights.	The requirement in 22VAC40-131-490 E is removed.	This requirement is covered 22VAC 40-131-250 E and does not belong in the 'adoption counseling and services for birth parents' section.

22VAC40-131-500 Involuntary termination of parental rights.	This section requires the licensee to follow Code of Virginia and policy approved by the state board when involuntary termination of parental rights is necessary.	The following language is removed: "and policy approved by the state board". The following language is added: "any other necessary legal requirements to achieve the involuntary termination of parental rights"	Phrase removed for clarity, there is no policy approved by the state board that is relevant to this section. The added language was suggested by the Office of the Attorney General.
22VAC40-131-510 A, B Provisions for adopting children with special needs	This section requires that children with special needs are placed on the Adoption Resource Exchange of Virginia promptly after parental rights have been terminated.	The licensee shall collaborate and work cooperatively with the local departments to ensure that children with special needs are placed on the Adoption Resource Exchange of Virginia unless an adoptive placement agreement has been signed. The licensee holding custody shall ensure the child is registered.	Change was made to clarify requirements on who needs to register a child with special needs on the Adoption Resource Exchange of Virginia.
22VAC40-131-510 C Provisions for adopting children with special needs	This section discusses requirements for the licensee to work with the local departments to secure adoption payments for the child.	"Subsidy" is removed and 'assistance' is added.	Due to changes to § 63.2-1300 of the Code, "Subsidy" is now referred to as 'assistance'.
22VAC40-131-510 D Provisions for adopting children with special needs	This section requires that necessary and appropriate services and treatment are provided to children with special needs.	Language 'including arranging for necessary services after the final order' is removed. Language 'pursuant to Title 63.2 Chapter 13 of the Code of Virginia' is added.	Language is added pursuant to § 63.2, Chapter 13 of the Code-Adoption Assistance for Children with Special Needs.
22VAC40-131-520 F Selecting an adoptive home	This section describes what the licensee shall provide to adoptive parents about the child.	'Educational' was added to 22VAC40-131-520 F 1.	"Educational" is added because this information should be provided to the adoptive parents.

Minor grammatical, typographical, and numbering/lettering errors were also corrected.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
	22 VAC 40-131-10 Definitions	
Two providers	Annual - Thanks for the extra month. Will help with Medicaid coverage.	Agency agrees.
Division of Licensing Programs, Child Welfare Unit	Remove independent living arrangement from definition for "applicant" and "mutual selection." An independent living arrangement is not an approved provider type.	Change made for clarity. Independent living arrangement is not a person, so it should not be included as a type of applicant or in the definition of mutual selection.
Three providers and Division of Licensing Programs, Child Welfare Unit	Caretaker – definition should clarify that a caretaker could include another adult living in the home only if that individual was physically and mentally capable of providing care.	Language mirrors that in 22 VAC 40-211-Resource, Foster and Adoptive Family Home Approval Standards. Issue will be clarified in training and technical assistance.
Two providers	Career and technical education – term is not used in the regulation	Term is used in independent living section 22 VAC 40-131-440 B 10 a.
Two providers	Child-placing activities – Definition is too broad. Limit language to that in the first sentence of the definition.	The definition is intentionally broad; is based on multiple sections of the Code of Virginia.
Attorney	Complaint – definition needs to be more inclusive	The definition is the same as used in 22 VAC-40-80, General Procedures and Information for Licensure.
Provider	Custody – should be defined in regulation	This is outside the scope of this regulation.
Two providers	Foster care placement – Don't we need to include one more condition here similar to (i) but not involving the local board but instead another non-DSS agency rep on the FAPT?	The definition is the same as the definition of "foster care placement" in §63.2-100 of the Code.
Two providers	Foster care services - See omission above.	The definition is the same as the definition of "foster care services" in §63.2-100 of the Code.
Provider	Add definition of "respite placement" or "respite care."	Definitions are not necessary as the terms are not used in the regulation.
Division of	Serious incident reports – Add	Change made for clarity. It is important to

Licensing Programs, Child Welfare Unit	requirement to report criminal activity and incidents requiring police intervention	know about these incidents.
Two providers	Short-term foster care – expand definition to allow successive short-term placements.	Successive short term foster care placements can be addressed through a variance or in technical assistance
Attorney	Special needs – add to definition “if the child has developed significant ties to his foster parents and the foster parents desire to adopt him.”	This suggestion does not define a special needs child, but defines a specific situation relating to any child.
Provider	Treatment foster care – Definition is strongly supported, but should not be redefined as a residential service for the purpose of reallocating money in the state budget.	Response not necessary; outside the scope of this regulation.
Provider	Youth - Should use the ages of 14-18 and former foster children 18-21. Concern: The age of 16 is not consistent with independent living training that is required to begin at age 14.	The definition is the same as the definition of “youth” in 22 VAC 40-201, Permanency Services - Prevention, Foster Care, Adoption, and Independent. This is in line with our goal of consistent regulations between public and private agencies.
Attorney	Add definitions for “home study,” report of home study,” report of investigation,” and “report of visitation.”	These will be clarified in training and technical assistance.
22 VAC 40-131-30 – Organization and Administration		
Division of Licensing Programs, Child Welfare Unit	Remove paragraph following 30.3.b, 30.4.c, and 30.5.c that begins ... “When not one of the members...” This paragraph is unnecessary as board must appoint Executive Director. It is a required position.	The regulation has been amended to delete the paragraph. Requirement is already in 22 VAC 40-131-140 D of this chapter.
22 VAC 40-131-40 – Licensee		
Division of Licensing Programs, Child Welfare Unit	G - Change to “The licensee shall maintain sufficient funds to ensure operation in compliance with this chapter.” Add, “The licensee shall develop an operating budget for a period of twelve months.” Currently written, the standard seems to mix operating funds and development of a budget.	Change made to return to the content of the current regulation, with language revised for clarity.
22 VAC 40-131-50 – Office		

Provider	<p>settings and conditions</p> <p>B 4 - Suggestion: Allow families and children the use of rooms for visitation if that is a contracted service for said LCPA. Concern: This statement may imply that all LCPA's offer a supervised visitation service and thus space for this service; this may not be accurate for all LCPAs.</p>	<p>This is consistent with 22 VAC 40-130-110.3 (the current regulation); no changes will be made.</p>
Attorney	<p>22 VAC 40-131-70 – Conflict of interest</p> <p>A. The governing board of the licensee shall not have a board member who is:</p> <ol style="list-style-type: none"> 1. An applicant for adoption services; or 2. A <u>current recipient of adoption services or recipient of adoption services within the prior six months.</u> <p>B. No biological parent of a child currently placed by the licensee <u>where the adoption has not been finalized or was finalized within the previous six months</u> shall serve as a member of the licensee's governing board.</p> <p>C. No provider <u>or applicant to be a provider</u> shall serve as a member of the licensee's governing board. REASON: Better defines and provides a cooling off period where a continuation in services is less likely. We do not want to rush individuals onto a Board then inhibit services. Six months is suggested since that is the statutory period after finalization where an adoption can be challenged. Section "C" was clarified because the definitions define "provider" (which you would want to include) but not provider applicant.</p>	<p>A- Change was made in 22 VAC 40-131-70 A 2 adding 'until the final order of adoption is entered.' This allows for parents with experience in adoption to participate in board activities.</p> <p>B. This standard will remain the same, it is from the current regulation 22 VAC 40-130-140 B. No problems have been encountered with the current language.</p> <p>C This standard will remain the same. It is from the current regulation 22 VAC 40-130-140 B. No problems have been encountered with the current language.</p>
Provider	<p>A 2 We are concerned with the change in the wording of this provision, particularly with respect to 22 VAC 40-131-70(A)(2). The current Minimum Standards (22 VAC 40-130-140(A)) state that</p>	<p>Change was made in 22 VAC 40-131-70 A 2 adding 'until the final order of adoption is entered.' This allows for parents with experience in adoption to participate in board activities.</p>

Provider	<p>applicants and recipients of adoptive services cannot serve as board members for an LCPA “before the final order of adoption is entered” (emphasis added). The proposed regulation, by removing the qualifying language could be read to prohibit any individual who receives adoptive services from an LCPA from later serving on that agency’s board, even after their adoption is final.</p> <p>Our agency has received enormous benefits from allowing adoptive parents to serve on our Board of Directors after their adoption is finalized and they have had ample time to adjust to the challenges of parenting an adoptive child. Because they went through the process, adoptive parents that serve on a Board of Directors can provide valuable insight that the agency can use to improve the quality of its services. While we agree that current applicants or current service recipients should not be permitted to serve on the Board of Directors, we believe that a better policy would be to allow adoptive parents to serve following finalization of their adoption and an appropriate adjustment period. Also, if a current Board Member wishes to pursue the adoption of a child, we believe that it is reasonable to require that Board Member to go inactive and be prohibited from participating in any agency business during the pendency of their adoption. However, once the adoption is finalized, that Board Member should be allowed to be reinstated.</p> <p>22 VAC 40-131-80 – Licensed capacity and maximum caseload numbers</p> <p>B - <u>Need to distinguish between “b” trainees and “c” trainees.</u> One appears to be for public agencies and the second for LCPA. The regulations should more clearly</p>	<p>No change will be made. 22 VAC 40-131-80 B 2 c refers to treatment foster care and 22 VAC 40-131-80 B 1 b refers to all other caseloads.</p>
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	distinguish the two references to trainees. Caseload capacity for strictly LCPA is unclear.	
Provider	C- For agencies providing solely treatment foster care, is the maximum caseworker caseload 10 children or 15. Based on the wording, it would appear that the maximum caseload is ten children assuming all children served by the TFC Agency are in treatment foster care.	No, the maximum is 12 children for treatment foster care. No change made. This is consistent with the current standard 22 VAC 40-130-920.
Provider	D 3 - Needs clarification regarding infants and children in the custody of a parent who happens to be in foster care through an LCPA.	This is consistent with the current standard 22 VAC 40-130-130 b 2. It will be clarified in training and technical assistance.
	22 VAC 40-131-90 – Policy and procedures	
Provider	131-90 D.4- Does this standard require that a specific home be kept as a back- up for each child or is a general reference to a back- up home being available sufficient. Can this be clarified?	Issues regarding back-up homes will be clarified in training and technical assistance.
Provider	D 4 : Implementing the child's emergency back-up plan when the placement disrupts. Can this be met through a general statement such as “another approved provider home within the agency” or is a specific home necessary? The requirement of another specific home would be unrealistic as the needs of children placed in a foster home fluctuate as does the capacity of the foster home provider.	Issues regarding back-up homes will be clarified in training and technical assistance.
Provider	D 4 We have questions about the expectation of this policy. How detailed would plans need to be and how can the agency plan for all potential contingencies. A plan for a disruption based on a foster parent becoming ill would look very different than one based on unforeseen changing behaviors of the child in placement.	Issues regarding back-up homes will be clarified in training and technical assistance.
Division of	D.5. Add “casework” between	Change made for clarity.

Licensing Programs, Child Welfare Unit	"designated" and "staff".	
Provider	F- Suggest guidance on implementation of emergency back up plans when placement disrupts. Suggest TFC providers be permitted to have a general statement such as "another approved provider home within agency" to allow for variation internally based on timing and situational emergencies, since not all back up homes will be readily available or appropriate at the time of the unplanned emergency.	Information on emergency back-up plans will be clarified in training and technical assistance.
Attorney	<p><u>J. A copy of the written policy and procedures shall be filed with the licensing representative and an update shall be filed at least once every three years.</u></p> <p>REASON: The state should have a copy so they can address complaints and deal with issues such as location of records after an agency ceases. There needs to be reasonable periodic reviews of policy and procedures within a set timeframe. 22VAC40-131-100 addresses the need but no timeframe.</p> <p>22 VAC 40-131-100 - Program evaluation and improvement</p>	This suggestion adds burdensome paperwork and expense and is not necessary.
Two providers	<p>This is a very nice addition to standards!</p> <p>22 VAC 40-131-140 – Staff composition and qualifications</p>	Agency agrees.
Provider	Staff- These revised definitions are appreciated to allow for greater hiring flexibility across the state and particularly in more rural areas.	Agency agrees.
Provider	D- Given the therapeutics needs of the population served by treatment foster care, the requirements pertaining to the role of <u>program director</u> should be increased, if anything, and not reduced.	No change; this was a decision made by the regulation revision committee.

Division of Licensing Programs, Child Welfare Unit	Add the word "child-placing" in front of "supervisor" for E.2, 3, 4.	Change made for clarity.
Provider	E4 The training and experience of supervisors overseeing the "direct" services rendered to clients should parallel or reflect the therapeutics needs of the clients served. Degrees in sociology and special education do not reflect this parallel experience in the same manner as degrees in social work and psychology.	No change; this was a decision made by the regulation revision committee.
Attorney	E ADD: <u>5. For the purposes of this section, a part-time contract worker with three or less concurrently open cases shall be counted as ½ caseworker.</u> REASON: This section fails to address "contract workers" which many licensed agencies employ. Some contract workers are used on a limited basis to provide assistance in a rural part of the state or sometimes a social worker is retained (and is technically a contract worker) out-of-country to do the post-placement visits for say a State Department family. I do not know if my proposal is the best solution but /I bring forth the issue as one needing to be addressed.	Clarifications will be made on an individual basis.
Two providers	H 1- Requirement to be supervised by an MSW. This is the only mention of this specific degree requirement in the new standards. This may not have been intentional? Suggest that a Child Placing Supervisor is sufficient to supervise interns or students if the college/university is OK with that qualification (particularly given the new experience requirements in other job descriptions	No change will be made. Students are only required to be supervised by a MSW if they are performing child-placing activities and involved in making placement decisions.
Provider association and three providers	H 2 - Regulation as proposed requires a doctorate or masters in social work to supervise interns; should the requirement not follow E.4.b related to supervising staff?	No change will be made. Students are only required to be supervised by a MSW if they are performing child-placing activities and involved in making placement decisions.

Three provider associations and two providers	<p>The MSW requirement is inconsistent with accepted credentials for staff supervision</p> <p>22 VAC 40-131-150 – Staff development</p> <p>B 1,2- Regulations as proposed require initial orientation training to be completed prior to the staff person assuming responsibilities of his position and within 30 days of the date of employment. There are some job responsibilities that could be successfully completed during the staff persons 30 day orientation and training period i.e. making referrals and linking to resources, monitoring service delivery, and obtaining progress updates from foster parents. This requirement would also seem excessive when the newly hired worked has previous experience in service delivery to foster children. Could the “prior to assuming the responsibilities” verbiage be stricken while maintaining the 30 day requirement?</p>	No change will be made. Information on staff development will be clarified in training and technical assistance.
Division of Licensing Programs, Child Welfare Unit	B.4 Change staff person who has responsibility to work with children and their families to casework staff.	Change made for clarity.
Attorney	B 6 (6) Prohibition of corporal punishment, <u>mental abuse and seclusion</u> ; REASON: While the old definition of corporal punishment was broader, under the new definitions there is a need to be more specific.	These behaviors are prohibited by definition of “abused or neglected child” in § 63.2-100 of the Code. No changes are needed.
Two providers	<p>E. uses expression "a child-placing agency-managed" file to describe where training documentation is to be kept. We assume this expression means the Personnel Record for the employee as that is what is prescribed in the Personnel Records section below.</p> <p>22 VAC 40-131-170 – Program statement and description</p>	This comment is correct. No change; this was a decision made by the regulation revision committee.

Division of Licensing Programs, Child Welfare Unit	A.3.a. -- This seems to add to the services for which a LCPA would be licensed. We do not currently provide authority for searches. It is not a child-placing activity. If this is needed, please remove "if the licensee is licensed to". Suggestion – Adult adopted persons, if the licensee provides adoption search services.	Change made for clarity. There is no authority to license the adoption search services.
One thousand twenty-six (1026) public comments received including those from four licensed child-placing agencies; 18 groups and organizations; four providers associations; Helen Donovan; adoption attorney; Delegate Robert Marshall	170 B (Non-discrimination) – Opposed to language	Language referencing gender, age, religion, political beliefs, sexual orientation, disability and family status was removed. The words 'to apply' in 22 VAC 40-131-170 B 2 were removed. Change made to be consistent with federal law, 42 USC 671.
Thirty-three (33) public comments received including those from one organization	Supported language in 170 B	Language referencing gender, age, religion, political beliefs, sexual orientation, disability and family status was removed. The words 'to apply' in 22 VAC40-131-170 B 2 were removed. Change made to be consistent with federal law, 42 USC 671.
One provider association and one provider	22 VAC 40-131-180 – Home study requirement B, C- sections seem to focus on the completion of the home study application before gathering and assessing begins by the licensee. Suggest combining B & C and strike the word "completion" to allow the licensee to begin the process of gathering and assessing information before the full application is completed.	This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards. This is in line with our goal of consistent regulations between public and private agencies.
Two providers	Home Study Requirements "verifications of provider couple's	The discrimination language referenced in this comment is being amended.

Attorney	<p>marriages and divorces" ... This is the standard which we took in the past to mean that if the provider is a couple and they cannot verify they are married, then we cannot use them. We assume that this interpretation is now incorrect considering the new anti-discrimination clause referred to above.</p> <p>C. Upon the licensee's determination that the provider application is complete <u>or that the circumstances of a particular case require simultaneous actions</u>, the licensee shall begin the process of gathering and assessing information for use in the final decision related to whether the applicant and home meets all required elements for approval. REASON: While we may all strive to do handle things in an orderly fashion, real life requires agencies to have some flexibility to handle emergencies without receiving violations.</p>	<p>This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards. Home study requirements will be clarified in training and technical assistance.</p>
Provider	<p>180 C. Does this standard mean that a completed application must precede any assessment of the applicants' suitability to be approved a provider. Can this be clarified?</p>	<p>This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards. Home study requirements will be clarified in training and technical assistance.</p>
Attorney	<p>D. The licensee shall conduct a minimum of three face-to-face interviews on three separate days with each applicant. <u>If one applicant cannot be physically present because of military service, employment or extraordinary circumstances, alternative methods of communication including, but not limited to videoconferencing, webcam and telephonic communication, maybe substituted to include the participation by that applicant. In order of priority, reasonable efforts should be made to include the applicant in person, by video means and finally by telephonic or other means.</u></p>	<p>This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards. Home study requirements will be clarified in training and technical assistance.</p>

Attorney	E. At least one of the face-to-face interviews shall be conducted in the home of the applicant and, if there are two applicants, at least one face-to-face interview shall be conducted with both applicants present <u>except when one applicant cannot be physically present because of military service, employment or extraordinary circumstances.</u>	This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards. The absence of an applicant will be clarified in training and technical assistance.
Two provider associations	180 E. The licensee shall conduct 3 face to face interviews on 3 separate days... For prospective parents where one is in the military or temporarily out of the country, it would be helpful to include an option for conducting interviews through Skype or through video conferencing.	The absence of an applicant will be clarified in training and technical assistance.
Attorney	F. At least one face-to-face interview shall be conducted with all individuals who reside in the home of the applicant <u>except when one applicant cannot be physically present because of military service, employment or extraordinary circumstances.</u> REASON: An occasional but reoccurring issue has been trying to complete home studies when spouses are deployed overseas for military duty or as military contractors, Foreign Service Officers and CIA. This allows the agency some flexibility to accommodate those serving our country when the need arises.	This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards. The absence of an applicant will be clarified in training and technical assistance.
Two provider associations	180 F Interview conducted with all individual who reside in the home... In the current standards VAC 40-130-400 B. 2. There is a requirement to interview all of the prospective parent's children who live outside the home as well. It is strongly recommended that this standard continue to be included.	This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards.
Three provider associations	G- Current proposed standard requires at least one of three references be non-relative. Best practice would suggest a larger ratio of references be provided by	This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards. Requirement does not prevent agencies from developing their own policies.

Attorney	<p>non-relatives. Would a revision be considered requiring at least two references from non-relatives?</p> <p>G QUESTION: Is one non-relative adequate or should two non-relative references continue as is currently required?</p>	This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards.
One provider and two provider associations	J 1 b- Tuberculosis screenings is referenced in this regulation. To maintain consistency with other standards, suggest this read "tuberculosis tests or screenings."	Screenings can include tests; this change is not needed.
Two provider associations	180 J. 3. e. (4) Corporal Punishment...Understands prohibition from using any form of corporal punishment on the child and also prohibition from giving permission to others to use any form of CP on the child....INCLUDE "while in the care and/or custody of a LCPA or until a final order of adoption is issued."	This suggestion is beyond the scope of the regulation. Post adoption activities are not regulated.
Provider	<p>J 3 e 4 We suggest that this standard be edited to reflect the differences between a child in a foster placement and a child in an adoptive placement. First, we agree that corporal punishment should be prohibited in all foster placements as well as in adoptive placements prior to the entry of the final order. However, we feel that some distinction should be made between these stages of the process. The Code of Virginia currently does not prohibit the use of reasonable, non-abusive corporal punishment by parents as a means of disciplining their children. However, the language of this regulation would require unequal treatment of biological and adoptive children. Although we acknowledge (and inform parents) that corporal punishment is often not appropriate for an adoptive child given that child's background, the law itself should treat biological children and adoptive children equally. We support the inclusion of a standard requiring that adoptive</p>	This suggestion is beyond the scope of the regulation. This regulation does not address adoptive children after the final order has been entered.

	<p>parents receive education on disciplinary theories and how different methods of discipline would affect their adoptive child considering his/her unique background. For many adopted children, this will mean that parents will be advised that corporal punishment is inappropriate for their child. For others, it may be that something as seemingly innocuous as a timeout could do more harm than good. Rather than mandating a particular disciplinary theory, the law should recognize that each child is different, and what is appropriate for one may not be appropriate for another. Adoptive parents, then, should be provided with all the information in order to allow them to make an informed decision about how best to discipline their children in accordance with each child's background and needs.</p>	
Attorney	<p>J 3 e 4 (4) Understands he is prohibited from using any form of corporal punishment, <u>mental abuse and seclusion</u> on the child and also prohibited from giving permission to others to use any form of corporal punishment on the child, <u>mental abuse and seclusion</u>; REASON: While the old definition of corporal punishment was broader, under the new definitions there is a need to be more specific.</p>	<p>These behaviors are prohibited by definition of "abused and neglected child" in § 63.2-100 of the Code.</p>
Provider	<p>180 O - Question: so is it optional to run background checks after 18 months if the adoption hasn't finalized rather than a requirement?</p> <p>22 VAC 40-131-190 – Home environment</p>	<p>This background check issue will be clarified in training and technical assistance.</p>
Two provider associations	<p>190 A. 3. Bed, furniture, equipped with clean, safe and comfortable sleeping furnishings. For infant and International adoption, it may be years before a child is placed in the home. (most of the time the child's room is still an office). Not realistic for those parents to furnish a room</p>	<p>This home environment issue will be clarified in training and technical assistance.</p>

	that may not be occupied for 3 years. May want to specify: Bed, furniture, equipped with clean, safe and comfortable sleeping furnishings...before a placement occurs.	
Provider	Will these requirements be in effect for both foster and adoptive homes? If so, this is a significant change from current standards and practice with respect to the approval of adoptive homes.	This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards. This is in line with our goal of consistent regulations between public and private agencies.
Provider association and one provider	E- Will we receive clarification regarding whether this means that a landline is required in the home or if an available cell phone is adequate?	Issues regarding telephones will be clarified in training and technical assistance.
One provider association and one provider	131-190 O. This standard seems excessive. Can it be reduced in its scope?	No, to protect children and vulnerable adults, regulations for all licensed programs require emergency preparedness and response plans.
Three provider associations and three providers	190 R – Need clarification on what constitutes a “weapon” and having knowledge of each federal, state and local ordinance seems like an excessive burden to place on providers.	Issues regarding weapons will be clarified in training and technical assistance.
One provider association and five providers	S. Clarification needed: does this mean that all vet records are needed for all indoor and outdoor pets or just what are the parameters around this? Also, what specific documentation would be needed in the resource/adoptive parent files to meet this requirement?	Issues regarding veterinary records will be clarified in training and technical assistance.
One provider	T- Need to add statement on how to ensure pets are safe and ensure proper documentation 22 VAC 40-131-200 – Initial approval or disapproval of home	The standard will remain as proposed; agencies must determine how to ensure pets are safe around children.
Division of Licensing Programs, Child Welfare Unit	A—Please define living arrangement or remove from the standard. It is unclear what the term refers to.	‘Or living arrangement’ struck because it is unclear what the term is referring to. There is no definition of ‘living arrangement’ in 22 VAC 40-131.

Division of Licensing Programs, Child Welfare Unit	Remove from B and G.1 the reference to independent living arrangement	Correction made-language not necessary.
Two provider associations	200 E. Within 7 business days the decision of approval or disapproval of an applicant, the licensee shall notify the applicant in writing....This proposed standard no longer requires the agency to offer to meet the client in person to discuss the disapproval outcome. Not good social work practice.	Consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards. This is in line with our goal of consistent regulations between public and private agencies. The error in 'license' corrected to 'licensee.'
Three provider associations and three providers	H- "Following approval ... shall provide orientation etc." The usual practice in TFC is to do orientation and pre-service training before or during the actual home study process since training serves also as an opportunity for mutual selection. Suggest striking orientation from H.1.and be included in 22VAC40-131-210A. 22 VAC 40-131-210 – Provider training and development	Agency agrees. Orientation moved to 22 VAC 40-131-200 A 2. This training issue will be clarified in training and technical assistance.
Provider association, five providers, and one attorney	A. The pre-service training requirements fail to recognize the differences between foster and adoptive children and their families, and even between families of children who are adopted domestically and families of internationally adopted children. As an agency that currently only offers intercountry adoption services, we do not provide services related to the transition of youth to independent living (22 VAC 40-131-210(A)(8)) nor do we deal with situations where reunification is a service goal (22 VAC 40-131-210(A)(5)). Further, many of the training requirements do not apply to our international programs because of the nature of intercountry adoption. Training standards should be edited to reflect the differences between the programs offered by child-placing agencies.	Agency agrees. Change was made to allow pre-service training to be consistent with the licensee's program statement and description.

Division of Licensing Programs, Child Welfare Unit	Strike 'short-term foster' from 210 A	'Short-term foster' has been removed. Short term foster training is covered in 22 VAC 40-131-220
One provider association and one provider	B- Suggest "prior to renewal of approval, training should be provided relevant to the needs of the family and children served, as appropriate." At renewal, families should not have to go through all pre-service training again. Ideally, provider is training family throughout year since last renewal to ensure relevant training is held.	This training issue will be clarified in training and technical assistance.
Division of Licensing Programs, Child Welfare Unit	Add the physical restraint training required by 90.G.1 and 3.	Physical restraint training was added to the pre-service training core competencies in 22 VAC 40-131-210 A 22.
	22 VAC 40-131-230 – Monitoring and re-evaluation of provider homes	
One provider association and one provider	230 B 1-2: While frequent home visits and contact with provider homes may be beneficial for families fostering older children, it would be overly burdensome and unnecessary for agencies working in infant adoption and intercountry adoption. There is already a standard that agencies need to be informed of significant changes to the home prior to placement which would require a home study addendum, and this standard is sufficient.	This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards. This is in line with our goal of consistent regulations between public and private agencies.
Provider	E4- Needs clarification as to who is qualified to complete this TB screening. Does it have to be medical personnel or can staff complete this?	The Virginia Department of Health's tuberculosis screening form specifies who is authorized to complete and sign the form.
Provider	230 E.8. Why would you need to provide an addendum to the homestudy when you are completing a re-evaluation? Isn't a reevaluation by its very nature an addendum to the homestudy?	The re-evaluation is the process; the home study addendum is the document.

Provider	<p>230.F.2.d SUGGESTED ADDITION: "Exception - For re-evaluations of providers of short-term foster care only, instead of addressing the provider's consistency and stability for each child placed since the last evaluation, the licensee should conduct an overall evaluation of the providers ability to assist the children in their home with transitioning to and from care."</p> <p>REASONING: Since the primary goal for short-term care is to provide safe and nurturing shelter during a transitional period in the life of a child, it is of greater importance that the providers understand how to help children successfully transition between home settings, than to provide long-term stability. In addition, because short-term providers typically care for more children over a 36 month period than long-term providers, it is more practical to conduct an overall assessment of the provider's performance in this area than to look at each child's case at the time of re-evaluation when they provides does short-term care only.</p>	This language is consistent with the current regulation 22 VAC 40-130 and will remain the same.
One provider association and three providers	<p>K- We agree that all contacts should be documented, however home visits and contacts in reference to a particular child are documented in the child's file, having the documentation in both files would be time consuming, costly and environmentally unfriendly. We would ask that this requirement be clarified to say that all contacts that are not in reference to a child and therefore not in a child's record, shall be documented in the provider's file.</p> <p>22 VAC 40-131-240 – Capacity of provider home</p>	This documentation issue will be clarified in training and technical assistance.
Provider One provider association and one provider	<p>A- Capacity for the number of children in foster home and therapeutic foster care but no mention of adopted homes- should we have a statement that says 'no</p>	No, approval of adoptive placements is based on many variables.

Speaker at public comment session	<p>capacity.'</p> <p>B Suggest that written justification be required when more than two unrelated children are placed in a treatment foster home. Suggest exempting sibling groups from requiring written justification.</p> <p>B Recommending 2 therapeutic foster children in a home is a concern. She feels there should be a special provision for the exception. She also shared a concern about a local DSS not following DSS standards. A therapeutic foster care home where the family was planning to adopt and the child had reservations about the adoption. The child was removed from the foster home after voicing reservation about the adoption.</p> <p>22 VAC 40-131-250 – Intake, assessment, and placement</p>	<p>Justification is still required for protection of the best interests of children.</p> <p>The proposed regulation does allow for an exception with written justification. The local DSS concern is outside the scope of this regulation</p>
Division of Licensing Programs, Child Welfare Unit	A and A.6 are inconsistent. It is suggested to remove from "in foster care" to "treatment foster care" from A.	Correction made for consistency.
Provider	C.5 - Under these standards, can a parent (legal guardian) enter into a "placement agreement" directly with Volunteer Families (LCPA) without the involvement of a local department of social services or the court? How does a placement agreement with a parent differ from a temporary entrustment? What should be contained in a placement agreement made directly between an LCPA and a legal parent?	Placement agreements are not allowed between a parent and a licensed child placing agency. Standard is consistent with § 63.2-1817 of the Code.
Provider association and two providers	D. - Independent living services is referenced in this section. Should the reference be to "Independent Living Placement" services?	Standard is consistent with definition of "independent living services" in this regulation. Independent living arrangement is different from independent living services.
Two provider associations, one attorney, and four providers	E. In cases where one birth parent has signed an entrustment and the other has not, the termination of the rights of the birth parent who didn't sign should occur by operation of	Change made to be consistent with § 63.2-1817 of the Code.

Attorney	<p>law, as is currently the case. We feel that this is the best procedure for children who need families.</p> <p>My suggested changes address this provision: 250 E 2. A notarized entrustment agreement signed by both parents or other person having <u>legal authority to consent to the adoption</u> (STRIKE: custody) of the child; REASON: Custody is not legally enough.</p> <p>3. <u>A notarized entrustment agreement signed by one parent and no other parent or individual has the legal right to consent to the adoption;</u> REASON: Need to add, otherwise agencies forced to pursue court action for termination of parental rights when an individual's consent is not required by law.</p> <p>5. <u>When allowed by law, a notarized written agreement approving the transfer of the child's custody from one agency to another.</u> REASON: Court approval is not normally required when a child is transferred between private agencies; also no court order required in common practice of Korean agency transferring custody to US Agency.</p>	<p>This change is not permitted; § 63.2-1817 of the Code requires custody and there is no mention of persons having authority to consent.</p> <p>Change made for clarity and to be consistent with § 63.2-1817 of the Code.</p> <p>This is an industry practice that is not currently recognized by the Code.</p>
Three provider associations and two providers	<p>H & P – Regulation states 250 H. 1 – 8 need to be documented before accepting a child for placement. 250 P states all of the required elements in 250 H need to be in the child's file within 30 days of the placement. Could we receive clarification on the time requirements related to this documentation? Some of the information required is not always available from the LDSS prior to acceptance, especially in emergency placement situations. Suggested verbiage would be 250 H "Prior to accepting a child for placement in a foster care home, treatment foster home, short-term</p>	<p>This documentation issue will be clarified in training and technical assistance.</p>

Provider	<p>foster care home, or an independent living arrangement the licensee shall attempt to gather, review and document the following in the child's file:"; 250 P would remain as it is currently written. This suggested verbiage would result in all documentation required in H being in the child's file within 30 days (as required by P) but allow both the LDSS and LCPA time to gather information.</p> <p>250.H.3.a.2 - SUGGESTED ADDITION: Except in the case of parental placement in short-term foster care or respite, for a child under one year old the admission examination shall consist of a hospital summary and a physician signed report of interim care no older than 30 days that documents the absence of abnormalities or if abnormalities are present the report shall contain an explanation of abnormalities observed. REASONING: While it is important for the licensee to capture as much medical information as possible at the point of intake, in the case of parental placement, there may be no to suspect that there are any abnormalities in the child's development or that the child has been hospitalized since birth. Parental placements are often made without any reported allegations of abuse or neglect by the parent.</p> <p>SUGGESTED ADDITION: Except when the placement of the child is an emergency placement or placement intended to last no longer than 30 days, the licensee shall prepare the child for placement and arrange a pre placement visit for the child in the prospective home. If a pre placement visit did not take place prior to the child's placement, the reasons why it did not occur shall be documented in the child's file. REASONING: The intent of pre-placement visit is to help ensure</p>	<p>This adoption issue will be clarified in training and technical assistance.</p>
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	that a child and a foster family are well-matched for long-term placement. While the licensee can and should use a variety of tools to match children and families prior to placement, a pre-placement visit may not be necessary prior to intended to last longer than 30 days.	.
Provider	S1- Add an additional code: 63.2-1233 of the Code of Virginia, as this also pertains to this standard.	The suggested Code section does not apply to 22 VAC 40-131-250 S 1 as it discusses parental placements.
Division of Licensing Programs, Child Welfare Unit	S.3, intake assessment does not seem to be used in this document. Please remove or define the intake assessment. The intake assessment seems to be covered by H. If H is intended to be the intake assessment, please include intake assessment in the heading.	The word 'assessment' was removed from 22 VAC 40-131-250 S 3.
Provider association and one provider	131-250 S.7. Rather than document the parent's specific reaction to each topic would it suffice to document the parent's general reactions unless they expressed concerns? 22 VAC 40-131-260 – Social history	This standard will remain the same; it is consistent with the current regulation 22 VAC 40-130-210 G. This language has not caused a significant hardship for providers.
Provider association and two providers	260 A - For children in foster care who we anticipate shall be longer term placements, but actually exit the program within the first 30-45 days, and when there is no plan for re-entry, we would suggest waiving the social history. This is an extra, unnecessary burden for unplanned placement disruptions. Suggest the regulation read complete social history at 45 days.	This social history issue will be clarified in training and technical assistance.
Provider association and three providers	260 B 8 and 9 - If a social history is required for "short term" placements that exit care prior to 30 days could the education, occupation, medical and psychiatric history information be required only for parents and siblings and/or other custodians? It can, at times, be quite difficult and time consuming to research the information for aunts, uncles and	This social history issue will be clarified in training and technical assistance.

	<p>grandparents, unless they were direct custodians of the child. This might be extremely difficult to accomplish within 30 days and would have little relevancy to treatment planning for a short term placement. Possible alternative verbiage would be "should attempt to gather" the above information on these family members.</p>	
Division of Licensing Programs, Child Welfare Unit	<p>22 VAC 40-131-270 – Foster home agreements</p> <p>B and C - Address verbal approval followed by written approval</p>	<p>22 VAC 40-131-270 B and 22 VAC 40-131-270 C are amended to reflect this change- The child can be placed with verbal approval from the Interstate Compact on the Placement of Children, but written approval must be obtained and maintained in the child's file.</p>
Two providers	<p>22 VAC 40-131-280 – Foster home agreements</p> <p>The current Foster Home Agreement which now includes the new Code of Ethics is 5 pages long. Over 20 additional items have been added here and it likely that this new agreement might reach 10 pages or more. This does not seem reasonable especially for certain placements such as weekend respites. Items such as permissions (for out-of-state travel & fundraising) are most always not relevant for these short placements. We currently keep such agreements in the child's record and inform foster parents as needed. Often agreements such as these have to be 'agreed upon' for each instance of out-of-state travel etc., so DSS may be reluctant to sign away such permissions to a foster parent on a non-specific basis.</p>	<p>This foster home agreement issue will be clarified in training and technical assistance.</p>
Provider association and one provider	<p>C.10 & 11 - Proposed regulation requires permission for out-of-state travel and permission for the child to participate in any fund-raising</p>	<p>This foster home agreement issue will be clarified in training and technical assistance.</p>

	<p>activities. Could these two requirements be stricken as they usually are dealt with on a case-by-case basis and custodial agencies may not be willing to give "blanket" permission?</p> <p>22 VAC 40-131-290 – Medical, dental, and psychiatric examinations and care</p>	
Two providers	Medical, Dental, and Psychiatric Examinations and Care - Thanks for the 60 days. That will be a big help.	Agency agrees.
Provider	SUGGESTED ADDITION: "In the case of temporary parental entrustment of a child into short-term care or respite, the licensed agency will identify obtaining medical care for the child as a primary service plan goal, and assist the parent and child with meeting that goal in no less than 60 days following placement, if a written medical examination no earlier than 90 days prior to placement is not available."	No changes will be made. To protect the health, safety, and welfare of the child, the agency has 60 days to obtain a medical report.
Provider association and one provider	A. 1. - Could there be clarification given with regards to children placed in an emergency situation that stay fewer than 60 days? If the child leaves prior to 60 days, is the requirement to obtain the physical waived? This would cover cases where a physical had been scheduled within the 60 day requirement but was unable to be kept prior to the child exiting care.	This medical examination issue will be clarified in training and technical assistance.
Provider association and two providers	C.11 Recommend that the phrase "Handicapping conditions" be changes to Disabling conditions or some other phrase that is less pejorative.	"Handicapping conditions or" is struck based on these comments.
Provider association and two providers	K-M are items concerning providers/foster parents would be more reasonably addressed in section 22 VAC 40-131-180 for Home Study Requirement.	We are adding a reference to 22 VAC 40-131-230 E4 about 22 VAC 40-131-290 K. We are adding a reference in 22 VAC 40-131-180 J 2 e 2 about 22 VAC 40-131-290 L-M to improve regulation compliance.
	22 VAC 40-131-300 - School enrollment	

Attorney	<p><u>ADD ; C. In order to provide educational stability to the child, the child should not be moved from their school of origin unless remaining is not in the child's best interests.</u> REASON: Federal law mandates this to provide stability.</p> <p>22 VAC 40-131-320 – Reports and policies to protect children</p>	Language to comply with Public Law 110-351 was added to this regulation.
Provider	<p>B. 1. c. - Can clarification be added as to whether or not this section requires the licensing representative to be notified when a suspected case of abuse or neglect is called into the local department or if the licensing representative is only notified notified only when a case is accepted for investigation by the locality.</p>	Licensing needs to be notified of all child protective services reports made by a licensed child placing agency, regardless of whether the report is accepted for investigation.
Provider association and one provider	<p>D2. & E. Suggest that the requirement in D2 for notifying the offices of licensing about a child's death includes the phrase "no later than the end of the next business day following the child's death." However in standard 320 E. serious incidents, accidents, or injuries to the child, while including 24 hour legal notice to the guardians, etc. also require 24 hour notice to the department's licensing representative. It seems that these incidents should be congruent with the standard notification of death, to read "on the next business day, to the department of licensing representatives." Clarification is also suggested on defining "serious incidents" otherwise the department of licensing representatives will be overloaded with reports on school suspensions, et. as serious incident is defined in many contracts with localities in many different ways.</p>	No change will be made. This decision was made by the regulation review committee. The standard does not prohibit the licensee from making the notification earlier.
Provider association and three providers	<p>E. Can clarification be added as to what constitutes a serious accident or injury?</p>	Guidance is given in the definition for 'serious incident report' in 22 VAC 40-131-10.

Provider association and three providers	<p>22 VAC 40-131-330 – Visitation and continuing contact with children</p> <p>330 F - This seems to be for the purpose of supporting services in the foster home. However there may be cases when intensive work might need to be done in the community or with the school. We would hope that we would be able to add additional contacts there, without being required to add contacts in the foster home in order to meet this standard. We would request that the standard clarify that more than half of the required contacts be conducted in the placement setting, this would allow flexibility that additional contacts be in whatever venue would be necessary.</p>	<p>This section is changed for clarity and now reads: "The licensee shall have at least one face-to-face contact with the child in the placement setting every 60 days." This is consistent with the current standard.</p>
Provider association and two providers	<p>G. 1. - Suggestion: The requirement of seven days between face-to-face contacts needs an exception: if child is placed during the last seven days of the month, two visits may occur within seven days, to be no closer than 24 hours apart. This would satisfy the DMAS requirement of two visits in a month that are necessary to bill for Medicaid TFC Case Management</p>	<p>This visitation issue will be clarified in training and technical assistance.</p>
Division of Licensing Programs, Child Welfare Unit	<p>K – Remove permanent. Our feedback from locals has been that they want to be notified of any move.</p>	<p>Change was made; local departments of social services must be made aware of any move of a child. Local departments of social services must know where the child is placed.</p>
Provider	<p>330 L. If repeated efforts to contact the worker/ supervisor fail does leaving a message on the voice mail of the worker/supervisor constitute contact?</p> <p>22 VAC 40-131-340 – Service plans</p>	<p>This notification issue will be clarified in training and technical assistance.</p>
Individual	<p>Question: does this include children through Child Specific Recruitment (Adoption) programs? (They may not be physically with us, but are receiving services.)</p>	<p>This comment is outside the scope of this regulation.</p>

Three providers	B.2. "Within 45 days ... an individualized service plan and an individualized comprehensive treatment plan." The use of the conjunction 'and' implies two plans. Would be a little less confusing to state 'an individualized service plan or individualized service and treatment plan' to distinguish the Service Plan from the Service/Treatment Plan.	Change made for clarity. The language 'individualized comprehensive' is deleted from this regulation. The treatment plan may or may not be a separate plan from the service plan.
Three providers	C. "in .. case of short-term foster care placement ... shall develop and implement plan within 72 hours." Is this intended to apply to programs offering respite care to bio families from the community? If so, then the requirement to have a full-blown service plan written in 72 hours will greatly discourage agencies from developing or continuing this service. The purpose of these programs is to offer families temporary respite and relief, not to treat their child which would be difficult in so short a period of time. It takes our staff at least one full day to write the initial comprehensive service plan.	Requirements for service plans for short term foster care are defined in 22 VAC 40-131-340 C. This issue will be clarified in training and technical assistance.
Two provider associations	22 VAC 40-131-360 – Discharge from care Upon discharge from care, the licensee who holds custody should ensure that the parents receiving a child for placement are provided with a copy of the child's birth certificate. This information is confidential in many agency infant adoptions. Identifying information cannot be disclosed to the adoptive parents 22 VAC 40-131-370 – Case record requirements	This discharge issue will be clarified in training and technical assistance.
Provider association and one provider	A. & O. The regulation proposed in A. requires a separate case file for the child's birth parents whereas the regulation proposed in O. states if services are provided to the child's birth family a file shall be maintained. O. goes on to state the	This case record issue will be clarified in training and technical assistance.

Attorney	<p>child's birth family file may be separate or combined with the child's file.</p> <p>H. When not in use, active and closed files shall be maintained in:</p> <p>1. A location that allows the department's licensing representative complete access to the files within a reasonable and short period of time following the representative's request to review files; <u>and</u></p> <p>2. An area accessible to staff; <u>and</u></p> <p>REASON: I believe the intent was for these to be "and" and not by implication "or".</p>	Change made for clarity. All of these elements are required.
Division of Licensing Programs, Child Welfare Unit	M.1 – The department does not have an application format for approved providers.	Change made for clarity; the department does not have a required application format.
Two providers	<p>N.1-10 Child's file: Items 1 thru 10 are a little confusing as organized here. For instance it is not clear which items address required content for the face sheet (1 only or 1 thru 5)</p> <p>Does case management (linking to services) offered to the family as a part of the service plan for the child constitute "services provided to the birth family?"</p>	<p>This documentation issue will be clarified in training and technical assistance.</p> <p>This documentation issue will be clarified in training and technical assistance.</p>
Two providers	P. "... file on each adoptive family" In typical foster to adopt situations, it has always been confusing as to whether one or two files for the provider are required. Only one seems needed.	This documentation issue will be clarified in training and technical assistance.
Two providers	Q. "Narrative Case notes ..." Would seem better to put this section under the Child's file section.	No change will be made. Organization of this regulation was determined by the regulation revision committee.
Two providers	R. Would seem better to put these final rules above in the general rules section for all records/files.	No change will be made. Organization of this regulation was determined by the regulation revision committee.

Two providers	<p>22 VAC 40-131-400 – Children placed in permanent foster care</p> <p>This section appears to apply only to custodial agencies. TFC and other non-custodial foster care programs facilitate placements in Permanent Foster Homes which they have approved, but do no legal or other work (Agreements etc.) related specifically to the permanency issue. Might be a good idea to clarify this fact here and in the adoption section below.</p>	This foster care issue will be clarified in training and technical assistance.
Provider	<p>22 VAC 40-131-420 – Children placed in short-term foster care</p> <p>Pleased to see short term foster care being considered and addressed</p>	Agency agrees.
Provider	<p>C. Concern how the licensee shall inform the provider of the child's treatment and service plan at the time of placement of the child if they are a community based youth who doesn't currently reside in foster care custody and show on weekends. Suggest defining difference of short term placements from short term foster care services, and allowing current guidance material for short term placements to be entered as regulation in these standards, without requiring a variance for programs admitting short term placements or respite placements to youth not permanently placed in foster care.</p>	This foster care issue will be clarified in training and technical assistance.
Provider	<p>D - What is the intended purpose of the above section? How does this section apply, or not apply, to agencies which ONLY provide short-term foster care?</p>	This section applies to children placed in short-term foster care.
Provider association and one provider	<p>22 VAC 40-131-460 – Children placed in treatment foster care</p> <p>B 4 c - Question: Regulation as proposed "Provides for at least one full time professional staff and part time staff whose hours are equivalent to a full time</p>	Language 'and' changed to 'or' for grammatical correction.

Provider association and one provider	<p>position". Should this regulation read "Provides for at least one full time professional staff or part-time staff whose hours are equivalent to a full time position"?</p> <p>D. Regulation as proposed requires a written plan for back-up emergency care if placement disrupts. Suggest this be met through a general statement such as "another approved home provider within the agency. The requirement of another specific home would be unrealistic as the needs of children placed in a provider home fluctuate as does foster home provider capacity.</p> <p>22 VAC 40-131-490 – Adoption counseling and services for birth parents</p>	This treatment foster care issue will be clarified in training and technical assistance. Another agency approved home is adequate for the emergency plan.
Two provider associations	<p>D. 2. Counseling was provided to the birth father. Such counseling shall be documented. It is very common that the birth father does not agree to participate in an adoption plan; therefore counseling cannot be provided or documented. Suggestion: Substitute "the birth father was offered counseling" instead of was provided counseling.</p>	No change will be made; standard says 'if counseling is provided.'
Attorney and one provider	<p>E. If the birth mother or both birth parents choose to place the child with the licensee for adoption, the licensee shall secure a termination of parental rights in accordance with §§ 16.1-277.01 and 16.1-278.3 and other relevant sections of the Code of Virginia related to termination of parental rights <u>unless the licensee is able to resolve all parental rights by operation of law.</u> REASON: Current law does not require licensees to go to court to terminate parental rights unless right is unresolved. This would add a great expense to agencies.</p>	The language in 22 VAC 40-131-490 E was removed, as it is already required in 22 VAC 40-131-250 E.

Attorney	<p>22 VAC 40-131-500 – Involuntary termination of parental rights</p> <p>When it is necessary to petition the court to terminate parental rights, the licensee shall follow the requirements of §§ 16.1-277.01 and 16.1-283.3 and other relevant sections of the Code of Virginia related to termination of parental rights and policy approved by the state board. REASON: Parallels 22VAC40-131-490 by including appropriate Code sections.</p> <p>22 VAC 40-131-510 – Provisions for adopting children with special needs</p>	<p>The language 'policy approved by state board' was removed because state board does not approve policy. The following language is added: "any other necessary legal requirements to achieve the involuntary termination of parental rights" based on the suggestion by the Office of the Attorney General.</p>
Provider association and four providers	<p>A. Assume here that the custodial agency has the responsibility to register child with the Adoption Resource Exchange. Should be clarified.</p>	<p>Change was made to clarify requirements to register a child with special needs on the Adoption Resource Exchange.</p>
Division of Licensing programs, Child Welfare Unit	<p>A, strike family, add 'placement agreement has been signed'</p> <p>B. strike 'a child has been identified for placement with the family' and add 'an adoptive placement agreement has been signed'</p> <p>C. strike subsidy, insert 'assistance'</p>	<p>Change was made to clarify requirements to register a child with special needs on the Adoption Resource Exchange</p> <p>§ 63.2-1300 in the Code has been revised and 'adoption subsidy' is now referred to as 'adoption assistance'.</p>
Provider association and two providers	<p>B. Most TFC agencies that do adoption do foster to adopt. Parents are approved as TFC/foster parents first but willing or can be talked into adopting the placed child if the fit is right. Their primary interest is not first in adoption and therefore it would seem to be inappropriate to register them with the Exchange. There are a few parents whose interest is primarily in adoption and it would be totally appropriate to register them on the Exchange. Can this be clarified here?</p>	<p>This adoption issue will be clarified in training and technical assistance.</p>
Provider	<p>Concern: could be a huge undertaking depending on the case – what are the parameters or guidance around this?</p>	<p>'Pursuant to § 63.2, Chapter 13 of the Code of Virginia' - Adoption Assistance for Children with Special Needs is added to 22 VAC 40-131-510 D. This adoption issue will be clarified in</p>

Attorney	<p>ADD:</p> <p><u>E. A child shall not be listed on the Adoption Resource Exchange of Virginia if an adoptive family has been identified.</u> REASON: Some local Departments list all children even if a family is identified thereby wasting resources.</p> <p><u>G. The case worker shall appropriately respond to an inquire for a child listed on the Adoption Resource Exchange of Virginia within three business days. A supervisor shall appropriately respond to the inquiry when three business days if brought to their attention that the case worker has not responded within the allowable time.</u> REASON: A 2007 Federal study delineates that 2/3 of potential adoptive parents are lost because of non-responsiveness on the local level. I receive numerous complaints from potential parents and social workers that they can not get local workers to respond to inquiries of children who are listed and available for adoption. These children unnecessary sit in the foster care system even though there are potential parents ready and willing to pursue their adoptions.</p> <p>22 VAC 40-131-520 – Selecting an adoptive home</p>	<p>training and technical assistance.</p> <p>This will not be added. A child should be listed on the Adoption Resource Exchange until an adoption placement agreement has been signed. Not all identified adoptive families complete the adoption process. It is in the best interest of the child to be listed on the Adoption Resource Exchange.</p> <p>No changes will be made; this is outside the scope of this regulation.</p>
Provider	<p>C2- This is inconsistent with the proposed section, 22VAC40-131-170 which addresses issues of age discrimination. We do agree that age is a consideration in the selection of adoptive families in infant adoptions.</p>	<p>The language in 22 VAC 40-131-170 B will be changed, deleting “age” to be consistent with federal law, 42 USC 671.</p>
Attorney	<p>520 F1. The child's history, including information about the child's birth, social, cultural, <u>school</u>, medical, developmental, psychological, and mental health; <u>when appropriate and reasonably available, the child's actual records shall be provided and redacted if</u></p>	<p>“Educational” is added because this information should be provided to the adoptive parents.</p> <p>The request for actual records will not be included as it is unknown if agencies would be able to comply.</p>

	<p><u>appropriate</u>, and REASON: School information is important. Actual records should be given when appropriate.</p> <p>22 VAC 40-131-530 – Adoption placement agreement</p>	
Two provider associations	<p>530 C. The adoption placement agreement shall include the requirements of the foster care agreement specified in 22VAC40-131-280 B and C. The above requirement is completely irrelevant and unnecessary for agency infant adoption. Rarely are infants placed with foster parents. In the vast majority of cases an adoptive family is already identified. When the adoption placement agreement is signed, the foster care provisions in the above mentioned standard do not apply. Suggestion: Provide a separate section in the regulations for agency infant foster care.</p>	No change will be made; the requirement is consistent with current regulation 22 VAC 40-130-330, Minimum Standards for Licensed Child-Placing Agencies. There have been no problems with the current language.
Provider	<p>22 VAC 40-131-540 – Placements requiring legal risk agreement</p> <p>D - Please clarify what determines “legally free” - and consider that currently a placement agreement can be signed with a notarized entrustment signed by a birthmother and with the appropriate result from the search of the Putative Father Registry – see 63.2-1233 of the Code of Virginia</p>	This is in the current regulation 22 VAC 40-130-330, Minimum Standards for Licensed Child-Placing Agencies, and will not be changed. This placement issue will be clarified in training and technical assistance.
Attorney	<p>22 VAC 40-131-560 – Parental placement adoption services</p> <p>C. During the preparation of the home study <u>report</u> (STRIKE: process), the licensee shall meet at least one time with the birth parent(s) and at least one time with the prospective adoptive parents. The licensee shall obtain the agreement of both parties prior to holding simultaneous meetings. D. The licensee shall ensure that the birth parent(s) and prospective</p>	This language is consistent with 22 VAC 40-211- Resource, Foster and Adoptive Family Home Approval Standards. This is in line with our goal of consistent regulations between public and private agencies. No changes will be made.

	<p>adoptive parents have exchanged identifying information including full names; addresses; physical, mental, social, and psychological information; and any other information useful in promoting the welfare of the child, unless both parties have agreed in writing to waive the disclosure of full names and addresses.</p> <p>E. During the meeting with the birth parent(s), the licensee shall determine that the consent for adoption is informed and not coerced.</p> <p>REASON: Originally specifies the wrong segment of the process. Recognizes that both birth parents may not participate in counseling or a simultaneous meeting.</p> <p>22 VAC 40-131-580 – Post-placement responsibility for adoptive home placements</p>	
Attorney	<p>A - The licensee shall ensure that supervisory visits with the child are made in compliance with § 63.2-1212 of the Code of Virginia <u>and in compliance with the Interstate Compact on the Placement of Children</u>; and, for children in foster care, in compliance with the requirements of policy approved by the Board of Social Services.</p> <p>REASON: Should include ICPC.</p>	No change will be made; this is covered in 22 VAC 40-131-270.
Attorney	<p>A 2. At least one visit shall be conducted in the home of the petitioners in the presence of the child and both petitioners unless the petition was filed by a single parent or one of the petitioners no longer resides in the home. If one petitioner no longer resides in the home, the licensee shall contact the absent petitioner to determine his interest in remaining involved in the proceedings. <u>If one applicant cannot be physically present because of military service, employment or extraordinary circumstances, alternative methods of communication including, but not limited to videoconferencing,</u></p>	This visitation issue will be clarified in training and technical assistance.

	<p><u>webcam and telephonic communication, maybe substituted to include the participation by that applicant. In order of priority, reasonable efforts should be made to include the applicant in person, by video means and finally by telephonic or other means.</u></p> <p>REASON: Address the occasional but reoccurring issue when spouses are deployed overseas for military duty or as military contractors, Foreign Service Officers and CIA. This allows the agency some flexibility.</p>	
Attorney	<p>B 3 - If conditions warrant, the licensee shall proceed to remove the child in accordance with the provisions of § 63.2-<u>1207 (STRIKE 904 C)</u> of the Code of Virginia.</p> <p>REASON: This is the applicable Code provision which includes § 63.2-904 (C).</p> <p>22 VAC 40-131-590 – Intercountry placement adoptions</p>	At the suggestion of the Office of the Attorney General, § 63.2-904 C is the correct citation.
Attorney	<p>A - Do we need to include agencies that provide support services for international adoption?</p>	Comment is unclear.
Attorney	<p>B - The licensee shall make available to its staff and to applicants written information about Virginia's pre-adoptive requirements for intercountry placements <u>including the Interstate Compact on the Placement of Children requirement when the foreign adoption will not be finalized abroad</u> and assist the family in determining when these requirements are applicable. REASON: Addresses common requirement.</p>	No change is made; this is covered under 22 VAC 40-131-270.
Attorney	<p>E. The licensee shall request that the adoptive applicants share available information about the child with the licensee when the applicants directly receive medical, developmental, social history, and other information learned about the child, the birth family, and extended family, including the child's</p>	This is outside the scope of this regulation.

	<p>placement history. <u>The licensee shall request a copy of the legal documents from the foreign country.</u> The licensee shall document in the child's file that this request was made. REASON: Agency should have copies particularly if adopters copies are ever lost or destroyed.</p> <p>22 VAC 40-131-600 – Interlocutory orders of adoption</p>	
Attorney	<p>(STRIKE: Interlocutory orders of adoption) Foreign Placements Authorized But Not Finalized In The Foreign Country.</p> <p>A. If the licensee holds legal custody of the child, the licensee shall file with the court, <u>if it finds the adoptive placement appropriate,</u> its written consent (STRIKE: to an <u>interlocutory order</u>) for the proposed adoption.</p>	<p>Comment unclear. No change will be made. The current language in 22 VAC 40-130-380 has not been problematic.</p>
Attorney	<p>C. A notarized statement shall accompany the <u>report of investigation</u> (STRIKE: order) stating that the licensee will assume legal responsibility for the child should the placement disrupt prior to the issuance of the final order of adoption. REASON: I believe this is what this regulation is attempting to address. Is the statement for the Court or ICPC?</p> <p>GENERAL COMMENTS:</p>	<p>Comment unclear. No change will be made. The current language in 22 VAC 40-130-380 has not been problematic.</p>
VDSS Division of Family Services, Permanency Program Manager	<p>Please note that the following information is required by the Fostering Connections to Success and Increasing Adoptions Act of 2008. This requirement should be added to the proposed regulation for Licensed Child Placing Agency Standards. This will also build consistency between requirements for public and private agencies in maintaining and sharing these records as required by law.</p> <p>4. Health and Education Records</p> <p>a. A child's health and education records are reviewed and updated, and a copy of the record is supplied to the foster parent or foster care</p>	<p>This change does not need to be made. It is the responsibility of the custodial local department of social services to maintain and share these records.</p>

	<p>provider with whom the child is placed, at the time of each placement of the child in foster care.</p> <p>b. The child's health and education records are supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State/Tribe law.</p> <p>A the time of each placement a copy of the child's health and education records shall be supplied to the ____ (foster parent) are reviewed and updated, and a copy of the record is supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.</p> <p>b. The child's health and education records are supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State/Tribe law.</p>	
Provider	<p>There didn't seem to be a place within the proposed standards that provided guidance around what documentation is required when a child is placed but is discharged prior to 30 days. If a child comes in to care due to an Emergency Removal Order, is placed in a TFC home, and then the Judge orders them back home at the Preliminary Hearing or a placement disrupts prior 30 days , what paperwork is required to be completed?</p>	<p>This documentation issue will be clarified in training and technical assistance.</p>
Provider	<p>Support for Revisions to Licensed Child Placing Agency Minimum Standards:</p> <p>Volunteer Families, a Virginia Licensed Child Placing Agency (License #co-339-10), is pleased with the effort to revise minimum standards for licensure. As the only agency in the Commonwealth whose expressed mission is to provide a maximum of 21 days of emergency shelter and respite,</p>	<p>No response required.</p>

	<p>Volunteer Families especially supports the distinction made in the new standards related to SHORT-TERM FOSTER CARE. After nearly 32 years of service to over 17,000 of Virginia's at-risk children and youth, we have a great deal of evidence to support that short-term care meets a significant need. We also believe the services that we are able to provide as a licensed agency are in clear congruence with the Virginia Department of Social Services' new practice model and the National child welfare movement to increase permanency for foster youth. Offering emergency shelter and ongoing respite to at-risk families, before an incidence of abuse or neglect occurs, will help keep families intact in the long run, while immediately serving the best interests and safety of children. However, the previous standards adopted in 1989, set up significant barriers for agencies like ours to meet requirements and conduct our work efficiently and effectively. Primary Concerns Regarding Revisions: While we support the short-term foster care distinction, there are several areas in which we believe the recent revisions do not go far enough in removing barriers to quality service provision.</p>	
Individual	<p>The proposed changes to the child-placing agency standards don't address the significant differences between the types of agencies that are all licensed by the same regulations. A foster care agency a domestic placement agency and an international placement agency conduct very different work and shouldn't be subjected to the same licensing standards.</p>	<p>Sections were combined to reduce redundancy where requirements were similar, while additional requirements for specific programs are addressed in separate sections. No changes will be made.</p>
Provider	<p>Intercept Youth Services applauds all of the individuals who put time, energy, sweat and tears into the rewrite of these regulations many times over since 1989. I appreciate the improved balance and realistic</p>	<p>No response.</p>

Provider	<p>view of our work, and look forward to the assistance of strong guidance material that will continue to help shape the workability of these regulations so the intent of the regulations to protect and serve children well in foster care is honored. Thank you for considering my comments</p> <p>It appears that the revised standards would now require all temporary entrustments directly to LCPAs be subject to court approval—which is a major change from previous standards. It is also unclear as to whether parents are able to place their children in short-term or other care using a parental placement agreement without entrustment, when a local department of social services is not involved with the case. Therefore, a serious, potential obstacle to parents seeking preventative or emergency care is presented in the new standards.</p> <p>Recommendation - At this time it is the recommendation of Volunteer Families, Lutheran Family Services, and Children, Youth, & Family Services that the new standards should contain a section which outlines the content of a parental placement agreement for short-term care in order to ensure a standard of fairness, ethics and legality among child placing agencies who take direct parent referrals for care. Then, temporary entrustments, authorized by the court should not be required in such cases.</p> <p>Is a separate section of the standards, dedicated solely to short-term foster care, being considered?</p> <p>Recommendation - At this time it is the recommendation of Volunteer Families, Lutheran Family Services, and Children, Youth, & Family Services to afford short-term care its own section within the standards---solely for the purposes of clarity. We believe there are enough important distinctions</p>	<p>22 VAC 40-131-250 E has been amended to be consistent with § 63.2.-1817 of the Code.</p> <p>Short-term foster care is discussed in 22 VAC 40-131-420.</p> <p>Respite care is not used in this regulation. Short term foster care is used.</p>
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<p>Provider</p>	<p>between short-term care and other placing activities to warrant an entire section.</p> <p>What is the VADSS definition of respite, both emergency and planned/ongoing?</p> <p>Recommendation - At this time it is the recommendation of Volunteer Families, Lutheran Family Services, and Children, Youth, & Family Services, to define the terms "respite," "crisis respite" and "planned respite" within the definition section of the new standards as follows.</p> <p>Respite – short-term foster care voluntarily entered into by birth, foster and adoptive parents, in order to provide care to children during a family crisis or during periods of high family stress. Respite does not change the child's custody status, and the goal is to prevent disruption of their permanent placement.</p> <p>Crisis Respite – respite that is needed immediately to alleviate a crisis in the child's home. Crisis respite placements made by LCPAs are subject to the same exceptions as emergency foster care placements made by local DSS.</p> <p>Planned respite – respite entered into when a family is experiencing chronic stress, but no immediate crisis is present. Planned respite can be scheduled as a single episode, or as a series of ongoing episodes.</p> <p>The Foster Family-based Treatment Association - Virginia Chapter appreciates the time and effort involved in revision of the minimum standards for licensure. The proposed standards 22VAC40-131 are indicative of Virginia's ongoing commitment to delivering quality services to children and families.</p> <p>Having read the entirety of the proposed revisions to the Minimum Standards for Licensed Child Placing Agencies, it would be helpful if the standards were</p>	<p>No response.</p> <p>Sections were combined to reduce redundancy where requirements were similar, while additional requirements for specific programs are addressed in separate sections. No changes will be made.</p>
<p>Provider</p>		

Individual	<p>reorganized to reflect the differences between the various child placing services offered. An agency that provide adoption services and an agency that provides foster care services have very different considerations and priorities. Even amongst adoption service providers there are very different circumstances and considerations. Agencies that provide intercountry adoption services have different regulations and issues to consider than agencies that provide domestic adoption services, and the standards should reflect these differences. For example, the training requirements enumerated in 22 VAC 40-131-210 are not equally applicable to foster and adoptive parents. The current organization of the standards makes it difficult for agencies to determine what standards apply to the services they provide and what standards do not.</p> <p>I am writing to comment on the proposed changes to the Virginia guidelines for child-placing agencies. As a social worker, I think it would be wholly inappropriate to do a family assessment and not be allowed to consider family status as part of a determination for a child placement. I can imagine many scenarios when a single individual may not be qualified for the same placement as a couple due to the ages, special needs and number of children being placed.</p> <p>Also, there doesn't seem to be a distinction between the requirements for an agency that receives state funding and those that do not. It makes sense for Virginia to have separate licensing standards for a foster care agency than for a private domestic placement agency than for an international adoption agency.</p>	<p>In the example of 22 VAC 40-131-210, the requirement was changed to allow the licensee to develop pre-service training based on their program statement and description.</p> <p>This will be addressed by changes made to 22 VAC 40-131-170 B.</p> <p>Sections were combined to reduce redundancy where requirements were similar, while additional requirements for specific programs are addressed in separate sections. No changes will be made.</p> <p>No response.</p>
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Provider	Adolescent and Family Growth Center, Inc. appreciates the work done by the Virginia Board of Social Services and the workgroup that was assembled to adopt new regulations for Licensed Child Placing Agencies. We also appreciate the opportunity to comment on the proposed regulations	
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All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
22VAC40-130-10. Definitions.	22VAC40-131-10. Definitions.		<p>The following new terms and their meanings are added in order to clarify their use in the body of the regulation: adoptive parent, adoptive placement, adult, annual, applicant, background checks, behavior support, birth parent, caretaker, career and technical education, case management, casework staff, child's family, dual approval process, emergency placement, employee, foster care placement, foster care services, foster parent, independent living services, in-service training, intercountry placement, local board, local department, mental abuse, mutual selection, parent, parental placement, permanent entrustment agreement, physical abuse, physical neglect, physical restraint, placing agency, pre-service training, provider, records, resource parent, seclusion, serious incident reports, services plan, sexual abuse, short-term foster care, special needs, treatment, treatment foster care, treatment foster parent, treatment team, and youth.</p> <p>The definition for foster care was replaced with foster care placement and foster care services.</p>

22VAC40-130-20. Legal base.	22VAC40-131-20. Scope and applicability.	Legal base provided.	This section combines the legal base and specifies applicability of 22VAC40-131 to types of child-placing agencies.
22VAC40-130-30 Sponsorship	22VAC40-131-30. Sponsorship.	Describes the different types of sponsorships for licensees: individual, partnership, unincorporated association, or corporation and applicable requirements.	This section was expanded to clarify the different business entities recognized by the State Corporation Commission.
22VAC40-130-40. Maintaining standards. 22VAC40-130-50. Financing plan.	22VAC40-131-40. Licensee.	Describes licensee's responsibility to maintain compliance with standards and provide evidence of finances and resources that will ensure operation in compliance with the standards.	This section combines the current 22VAC40-130-40 and 22VAC40-130-50 and includes provisions of General Procedures and Information for Licensure, 22VAC40-80 and § 63.2-1707 of the Code of Virginia (Code). It adds a requirement for compliance with the agency's policies and procedures, addresses information distributed or made available to the public and clarifies that the licensee maintains ultimate responsibility for the child's health, safety and well-being 24 hours a day 7 days a week. The requirements in these sections were combined to improve the clarity of the regulation and to assist providers with compliance.
22VAC40-130-100. Agency setting. 22VAC40-130-110. Office conditions.	22VAC40-131-50. Office settings and conditions.	Requires the licensee to maintain an office in Virginia to conduct business and specifies the spatial and use requirements and storage conditions of the office.	This section combines two sections in the current regulation into one section and clarifies language. All office requirements were combined in one section. The requirements in these sections were combined to improve the clarity of the regulation and to assist providers with compliance.
22VAC40-130-120. Posting of the License	22VAC40-131-60. Posting of the License	Requires the license to be posted in a conspicuous place near the agency entrance and in branch offices.	The requirement is the same with language added for clarity. The most recently issued license must be posted in each office location where child-placing activities are performed.
22VAC40-130-140. Conflict of Interest.	22VAC40-131-70. Conflict of Interest.	This section specifies who can serve on the placing agency's board of directors and prohibits the licensee from accepting an application for adoption from or provide services to its staff or governing board.	The requirements are the same, but language has been updated to include current terminology.
22VAC40-130-130. Caseload numbers and licensed capacity.	22VAC40-131-80. Licensed capacity and maximum caseload	This section specifies numbers for caseloads for staff and trainees and species how licensed capacity is determined.	The proposed regulation is the same as the current regulation except that treatment foster care caseloads are addressed in the proposed regulation. Treatment foster care was not addressed

	numbers.		in the current regulation and has been added. Student intern caseloads have been reduced from 5 to 3. The requirement for a training program for trainees has been moved to 22VAC40-131-140.
	22VAC40-131-90. Policy and procedure.		To protect the health, safety and welfare of children, this proposed section requires the licensee to develop policies and procedures for: admission, discharge and placement of children, foster parent support, licensee record-keeping, reporting of abuse and neglect of children, licensees hiring of qualified staff, notifying the department when an agency ceases operation, handling adverse reactions of children to medications, and acceptable methods of correction of children's behaviors (behavior support).
	22VAC40-131-100. Program evaluation and improvement		This proposed section requires the licensee to evaluate their programs and services and make improvements based on their findings. This will provide greater protections to children in care.
	22VAC40-131-110. Received date for materials		This proposed section is needed to ensure the licensee's compliance with regulations requiring dated materials and timeframes. This will assist providers with compliance.
	22VAC40-131-120. Access to written personnel policies		This proposed section is needed to ensure staff members have a basic understanding of licensee's personnel policies.
22VAC40-130-170. Job description.	22VAC40-131-130. Job descriptions.	The agency shall have a written description of the duties and responsibilities for each staff classification in its program. A copy of each description shall be given to the licensing representative at the time of the initial application and when descriptions are changed.	To ensure the employee is aware of job responsibilities, the proposed language clarifies the current language by describing the content of the job description. It removes the requirement to provide a copy to the licensing representative at the time changes are made as this was burdensome and unnecessary. It adds a requirement that the licensee provide a copy of the job description to employees to ensure that employees are aware of their job responsibilities.
22VAC40-130-190. Staff composition and qualifications.	22VAC40-131-140. Staff composition and qualifications.	It describes required staff positions and the qualifications for each position.	To facilitate staffing of the licensed child placing agency with qualified personnel, the new language expands the potential for individuals with related human services credentials to serve in the position of program director; changes the position title of "director of social

			services” to “program director”; increases the years of experience necessary to serve as child-placing supervisor; and expands the responsibilities of caseworkers.
	22VAC40-131-150. Staff development.		The proposed language provides categories of orientation and training necessary for staff to be knowledgeable about practices, laws, and regulations for the protection and well-being of children. The training includes: agency policy and procedures; child abuse and neglect recognition and reporting; behavior support; emergency preparedness; permanency; and transition from foster care to independent living.
22VAC40-130-180. Personnel records.	22VAC40-131-160. Personnel records.	Requirements for content of personnel records.	The language clarifies the current requirements for background checks, applications and resumes. It provides the ability of licensees to maintain electronic records. It adds a requirement for copies of educational degrees and credentials, and dates of employment and separation of each position. It expands accepted references by allowing oral references. It provides requirements for maintaining documentation for staff records. These new requirements will ensure that staff are qualified to work with children.
22VAC40-130-200. (Foster care) program statement. 22VAC40-130-290. (Adoption) program statement.	22VAC40-131-170. Program statement and description.	Section 200 contains requirements pertaining to foster care and independent living. Section 290 contains requirements pertaining to adoption.	Combined similar requirements for foster care and adoption into one section to reduce redundancy. Included requirements are consistent with §§ 63.2 Chapters 9 and 12 and §§ 63.2-1817 and 1819 of the Code. The prohibition to discriminate based on the sex or handicapping condition of the child was removed. Discrimination based on race, color, or national origin continues to be prohibited in the proposed regulation. These changes were made to be consistent with federal law 42-USC 671.
22VAC40-130-270. The foster family. 22VAC40-130-400. The adoptive home study. 22VAC40-130-280.C.2. Foster care records. 22VAC40-130-410.D.1. direct	22VAC40-131-180. Home study requirements.	Section 270 contains requirements for foster home study. Section 280 requires a foster home application. Section 400 is the adoptive home study. Section 410 is the adoptive home application.	Combined similar requirements for foster care and adoption into one section to reduce redundancy. Included requirements consistent with the Code and 22VAC40-211- Resource, Foster and Adoptive Family Home Approval Standards. Clarifies requirements for short-term foster care, resource and treatment foster care homes. Change made for clarity to remind licensee of requirements for medical examinations in 22VAC40-131-290 L-M to assist

parental placement services.			providers with compliance.
22VAC40-130-270. The foster family.	22VAC40-131-190. Home environment.	Requirements for the home and surroundings.	Requirements were added to be consistent with 22VAC40-211- Resource, Foster and Adoptive Family Home Approval Standards. Requirements increased provisions involving emergency preparedness, bathing and toileting facilities, pets, safe storage of medication, and smoke detectors. Additional requirements will increase the health, welfare and safety of children.
22VAC40-130-270. The foster family. 22VAC40-130-400. The adoptive home study.	22VAC40-131-200. Initial approval or disapproval of home.	Section 270 contains requirements for the approval of foster homes. Section 400 contains requirements for the approval of adoptive homes.	It is consistent with 22VAC40-211- Resource, Foster and Adoptive Family Home Approval Standards. Change was made to allow orientation training to occur prior to the approval of the provider as orientation can provide a time for further assessment of the family.
22VAC40-130-270.C.1. The foster family.	22VAC40-131-210. Provider training and development.	The agency shall have a plan of orientation for each newly approved foster family.	It is consistent with 22VAC40-211- Resource, Foster and Adoptive Family Home Approval Standards. It clarifies the elements of what needs to be included in pre-service training. Agencies may develop pre-service training based on their program statement and description.
	22VAC40-131-220. Training and development for providers of short-term foster care.		This new section is consistent with 22VAC40-211, Resource, Foster and Adoptive Family Home Approval Standards, to meet federal funding requirements for foster care services. This section was added because short-term foster care is not addressed in the current regulation. The proposed regulation provides requirements for orientation and pre-service training. Some training elements required for the other types of placements have been eliminated for the short-term foster care provider.
22VAC40-130-270.D. Re-evaluation of foster homes. 22VAC40-130-400.I. Re-evaluations.	22VAC40-131-230. Monitoring and re-evaluation of provider homes.	Sections 22VAC40-130-270.D and 22VAC40-130-400.I addressed only the re-evaluation of foster and adoptive homes.	Along with re-evaluation, elements have been added to ensure the protection, safety and well-being of placed children by requiring periodic monitoring and evaluation of approved providers. This new section is consistent with 22VAC40-211- Resource, Foster and Adoptive Family Home Approval Standards.
22VAC40-130-270.B. Foster home capacity.	22VAC40-131-240. Capacity of provider	The total number of children in the foster home shall not exceed	For the protection, safety and welfare of children, this section clarifies that each child shall have adequate space and

	home.	eight including the parents' own children.	furnishings. It also limits treatment foster homes to two children for the protection, safety and well-being of children. It establishes criteria for determining capacity based on accommodations, capabilities and skills of the provider, and needs of the children in care.
22VAC40-130-210 Intake. 22VAC40-130-300.B. Authority to place.	22VAC40-131-250. Intake, acceptance, and placement.	The current requirements consist of a list of elements with directions to follow Service Programs Manual (Family Services' manuals regarding foster care and adoption).	This section clarifies language of the current regulation, incorporates applicable provisions in § 63.2-1817 of the Code and adds placement requirements for independent living arrangements. The reference to Service Programs Manual was deleted. For the protection, safety and well-being of children, this section adds criteria for the placement of children. For clarity, the term 'intake assessment' is changed to 'intake'.
22VAC40-130-210.C. (Foster care) Intake. 22VAC40-130-310.C. (Adoption) Program statement.	22VAC40-131-260. Social history.	The current requirements consist of information to obtain on a child for the purpose of determining the appropriate goal for the child and services needed to reach the goal.	This section increases the time for completion of the social history from 30 to 45 days to allow for more complete information on the child. More thorough information will assist in protecting the safety and well-being of the child and assist in assessing needs and determining the goal and services to be provided to the child. For adoption, the social history will need to be completed prior to the signing of the adoption agreement; this was changed to ensure children who were not placed in foster homes have a social history completed.
22VAC40-130-430. Interstate compacts.	22VAC40-131-270. Interstate placements.	The current requirements for interstate placements are made by reference only.	This section incorporates interstate compact requirements into the document whereas before these requirements were incorporated only by reference. This section is consistent with requirements §§ 63.2-1104 and 1105 of the Code. This section clarifies that verbal approval by interstate compact is required prior to placement, but written approval must be obtained and maintained in the child's file.
22VAC40-130-270.C.4. The foster family.	22VAC40-131-280. Foster home agreements.	The current requirements consist of information necessary to include in an agreement for placement.	This section clarifies the current language and adds new requirements from § 63.2-902 of the Code. It is consistent with 22VAC40-211-Resource, Foster and Adoptive Family Home Approval Standards. The changes will assist in protecting the health, safety and welfare of the child.
22VAC40-130-220. Ongoing services.	22VAC40-131-290. Medical, dental, and	The current requirement is for the medical examination to be	This section adds the flexibility for the licensee to obtain a medical examination on the emergency-placed child within 60

	psychiatric examinations and care	completed within 30 days of placement for emergency-placed children.	days following placement instead of the current 30 days for any child who has not received a medical examination within 90 days prior to his placement. This was changed due to the difficulty some licensees face in trying to find a Medicaid provider to examine the child on quick notice. The term 'handicap' was changed to currently accepted terms.
22VAC40-130-210.E. Intake.	22VAC40-131-300. School enrollment.	This current requirement made the licensee, whether custodian or not, responsible for enrolling the child in school with 5 days of placement.	This section incorporates language in § 63.2-900 of the Code which requires the custodial agency to enroll the child in school within 72 hours of placement. Language was added to require the licensee to collaborate and work cooperatively with the local department of social services and the education authority to maintain educational stability for each child, based on federal law, Public Law 110-351. It is preferred that children continue to be enrolled in their home locality school to maintain educational stability.
22 VAC40-130-220 Ongoing Services	22VAC40-131-310 Clothing and Spending Money for Children	School age children shall have an allowance.	For clarity and to assist providers with compliance, clothing and spending money for children was separated from a regulation with multiple requirements.
22VAC40-130-460. General. 22VAC40-130-470. Death of a child. 22VAC40-130-480. Abuse or neglect, or both	22VAC40-131-320. Reports and policies to protect children.	The current requirement is limited only to making a report of suspected child abuse and the death of a child.	This section clarifies language for the responsibilities of the licensee and adds requirements for: documentation of reports made, reporting serious incidents to placing agency, the parent or legal guardian, and department; and for the licensee to immediately notify custodial agency and department in cases of suspected child abuse and neglect.
22VAC40-130-220. Ongoing services.	22VAC40-131-330. Visitation and continuing contact with children.	The current requirement describes visitation.	This section has incorporated: the requirements of the Department of Medical Assistance Services for treatment foster care providers, § 63.2-904 of the Code, and 22VAC40-211-Resource, Foster and Adoptive Family Home Approval Standards. It combines different requirements for permanent foster care and children placed in residential settings. The licensee must make certain notifications if a move is made from one foster home to another because local departments who hold custody of the child must be aware of where the child is placed at all times. These changes help to assist providers with compliance.
22VAC40-130-	22VAC40-131-	The current requirement	This section has clarified requirements of

210.H. (Foster care) Intake.	340. Service plans.	is very general and includes components of the services plan including: goal and target date for the child, services to be offered, participation sought, and placement type	the current regulation and incorporated: the requirements of the Department of Medical Assistance Services and § 16.1-281 of the Code for treatment foster care providers. The incorporation of these elements makes the requirements consistent for all placement types.
22VAC40-130-230.B. (Foster care) Intake.	22VAC40-131-350. Quarterly progress summaries.	The current regulation requirement is a written summary for the quarter to evaluate progress made in reaching the child's goal.	This section has clarified requirements from the current regulation and it incorporates the requirements of the Department of Medical Assistance Services for treatment foster care providers. The incorporation of these elements makes requirements consistent for all placement types.
22VAC40-130-240. Termination of care.	22VAC40-131-360. Discharge from care.	This section contains requirements to be included in the child's discharge summary and for custodial agency responsibilities in providing copies of medical and school records to parents or receiving agency.	Changed the word "termination" to "discharge". This section clarifies the language from the current regulation and it incorporates the requirements of the Department of Medical Assistance Services for treatment foster care providers. The incorporation of these elements makes requirements consistent for all placement types.
22VAC40-130-280. Foster care records. 22VAC40-130-420. Adoption records. 22VAC40-130-500. Storage. 22VAC40-130-510. Confidentiality. 22VAC40-130-520. Entries in case records. 22VAC40-130-530. Evidence of compliance. 22VAC40-130-540. Retention of records.	22VAC40-131-370. Case record requirements.	The current regulation lists elements required in the records kept by the licensee.	This new section merges and groups multiple sections into one section to reduce redundancy, clarifies language of the standards, adds language from Department of Medical Assistance Services for treatment foster care, and incorporates requirements of 22VAC40-211- Resource, Foster and Adoptive Family Home Approval Standards. Requirements about storage of active and closed files have been clarified to assist providers with compliance.
	22VAC40-131-380. Behavior support and crisis intervention.		This new section incorporates positive behavior management techniques for parents to use to assist children with overcoming negative or undesirable behaviors and to assist children in learning new coping techniques. It identifies acceptable correction methods. These changes reflect current industry standards.

	22VAC40-131-390. Applicability (Permanent foster care).		This is a new program-specific section that only applies to permanent foster care. This change makes the regulation more user-friendly.
22VAC40-130-250. Permanent foster care.	22VAC40-131-400. Children placed in permanent foster care	The current regulation incorporates by reference the state social services department Service Programs Manual (Family Services' manuals regarding foster care and adoption).	This section removes the reference to the Service Programs Manual and lists the requirements of § 63.2 Chapter 9, § 16.1-281 and § 16.1-282 of the Code. It clarifies that permanent foster care homes are approved, monitored, and evaluated the same as other provider home types.
	22VAC40-131-410. Applicability (Short-term foster care).		This is a new program-specific section that only applies to short-term foster care. This change makes the regulation more user-friendly.
	22VAC40-131-420. Children placed in short-term foster care		This section is consistent with 22VAC40-211 - Resource, Foster and Adoptive Family Home Approval Standards except that the term respite care services is replaced with short-term foster care in 22 VAC40-131.
	22VAC40-131-430. Applicability (Independent living arrangements).		This is a new program-specific section that only applies to independent living arrangements. This change makes the regulation more user-friendly.
22VAC40-130-260. Independent living arrangements.	22VAC40-131-440. Youth placed in independent living arrangements.	The current regulation incorporates by reference the state social services department Service Programs Manual (Family Services' manuals regarding foster care and adoption).	This section removes the reference to the Service Programs Manual and adds specific requirements for placing youth in independent living arrangements. It is consistent with the requirements of § 63.2 Chapter 9, § 16.1-281 and § 16.1-282 of the Code for independent living arrangements. These requirements are now specifically listed in the regulation which will assist providers with compliance.
	22VAC40-131-450. (Applicability Treatment foster care).		This is a new program-specific section that only applies to treatment foster care. This change makes the regulation more user-friendly.
	22VAC40-131-460. Children placed in treatment foster care.		The current regulation does not include the requirements for treatment foster care. The programs providing those services were required to follow the separate Medicaid regulation for treatment foster care. This section now incorporates the Medicaid requirements. This will assist providers with compliance.

	22VAC40-131-470. Applicability (adoption).		This is a new program-specific section that only applies to adoption. This change makes the regulation more user-friendly.
22VAC40-130-390. Agency fees.	22VAC40-131-480. Fees for adoption applications and services.	The current regulation requires an explanation of fees, determination of fees and refund policy.	This section contains clarifying language and adds the requirements for full disclosure of fees, provision of a copy of the fee explanation to the applicant, and the establishment of a mutually acceptable written agreement for fees.
	22VAC40-131-490. Adoption counseling and services for birth parents.		This section incorporates applicable adoption requirements of § 63.2-1224-1226 of the Code.
22VAC40-130-370. Involuntary termination of parental rights.	22VAC40-131-500. Involuntary termination of parental rights.	The current regulation includes a statement of when to seek termination of parental rights, requires the submission of a permanent placement plan to the court and incorporates by reference social services department's Service Programs Manual (Family Services' manuals regarding foster care and adoption).	This section requires the licensee to follow § 16.1-281-283 of the Code when involuntary termination of parental rights is necessary.
22VAC40-130-360. Provisions for children with special needs.	22VAC40-131-510. Provisions for adopting children with special needs.	The current regulation specifies to make a referral to Adoption Resource Exchange of Virginia and incorporates by reference the social services department's Service Programs Manual (Family Services' manuals regarding foster care and adoption).	This section clarifies the requirements for making a referral to Adoption Resource Exchange of Virginia and incorporates language from the social services department's Service Programs Manual. Adoption 'subsidy' is removed and replaced with 'assistance' due to changes made to § 63.2-1300- Adoption Assistance for Children with Special Needs of the Code. Language requiring the agency to make arrangements for services for a child with special needs after the final order of adoption has been changed to language requiring the licensee to ensure that services and treatment are provided to children with special needs. Language 'pursuant to Title 63.2, Chapter 13 of the Code of Virginia' is added to ensure compliance with this Code.
22VAC40-130-320. Items to be considered when selecting an adoptive home.	22VAC40-131-520. Selecting an adoptive home.	The current regulation requires foster parents to be a primary adoptive resource and details requirements for consideration when	This section adds relatives as a primary adoptive resource and increases the opportunity to be consistent with permanency goals. It incorporates language from requirements in § 63.2-900.2 of the Code. The licensee must

		selecting an adoptive home.	provide adoptive parents factual information about the child and the child's birth family.
22VAC40-130-400 G. The adoptive placement agreement.	22VAC40-131-530. Adoption placement agreement.	The current regulation requires the licensee to follow the foster home agreement.	Clarifies that adoption placements must follow the same requirements for the placement agreement at acceptance of the child and adds requirements from § 63.2-1221 of the Code.
	22VAC40-131-540. Placements requiring legal risk agreement		This new section incorporates requirements § 63.2-1221 of the Code. It addresses conditions under which the valid entrustment agreement may be revoked, clarifies that the placement is recognized as a foster home placement thus requiring the foster home agreement, and requires the prospective adoptive parents to sign a written statement acknowledging the revocation conditions. This statement must be maintained in the child's file.
22VAC40-130-340. Placement of children over one year.	22VAC40-131-550. Adoptive placement of children over one year of age; additional provisions.	The current regulation requires 22VAC40-130-320 to be considered in placing a child over one year. An older child's concerns about adoption must also be considered.	This section incorporates requirements in § 63.2 Chapter 12 of the Code. It requires the involvement of the child in adoption planning and includes the responsibility of the licensee to document services and contacts provided to the child for adoption preparation.
	22VAC40-131-560. Parental placement adoption services.		This new section incorporates requirements in § 63.2 Chapter 12 of the Code and specifies the licensee's responsibilities of conducting the home study, ensuring the exchange of information between birth and adoptive parents, ensuring adoption decision is an informed decision and has not been a coerced decision, and providing counseling to prospective adoptive parents.
	22VAC40-131-570. Parent-recommended homes for adoptive placements.		This new section incorporates requirements §§ 63.2-1225 and 1226 of the Code and specifies the licensee's responsibility when accepting custody of a child for the purpose of adoption to include providing information to the birth parents about adoption placements and obtaining their decision about placement option, allowing representation by legal counsel and counseling.
22VAC40-130-350. Agency responsibility after child is placed in the adoptive home.	22VAC40-131-580. Post-placement responsibility for adoptive home placements.	This section requires supervisory visits and that the licensee maintain contact with the family until the final order or adoption. It clarifies that the agency is responsible	This new section incorporates requirements in § 63.12-1212 of the Code and clarifies the licensee's responsibilities specified in 22VAC40-130-350.

		for the child until final order of adoption is entered.	
	22VAC40-131-590. Intercountry placement adoptions.		This new section incorporates requirements of the Hague Adoption Convention, Intercountry Adoption Act of 2000, and Department of the State regulations on intercountry adoptions and requires the licensee to notify the department of details pertaining to the licensee obtaining or losing accreditation status.
22VAC40-130-380. Interlocutory orders.	22VAC40-131-600. Interlocutory orders of adoption.	This section describes the conditions under which the licensee may issue its consent to an interlocutory order.	This new section incorporates requirements § 63.2-1209, § 63.2-1210, and § 63.2-1211 of the Code.
	22VAC40-131-610. Subsequent adoptive placements.		This section provides clarification and responsibilities of the licensee when an approved home provider requests additional adoptive placements for their home. This section specifies requirements for home study, interviews, and orientation of the provider.

Minor grammatical, typographical, and numbering/lettering errors were also corrected. The word 'provider' is used in this proposed regulation in place of 'foster parent' and 'adoptive parent' in some situations.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulation is intended to help children find safe, stable and permanent homes which ultimately benefits society as a whole.

Private licensed child-placing agencies will benefit from this regulation by: consolidation of the requirements and updates of practice requirements specified in the Code of Virginia, applicable current practices and requirements of 22VAC40-130, and requirements of other social services regulations into one regulation set; some relaxed requirements for hiring casework staff; available specific clarity on expectations and requirements for compliance; available clarity on standards regarding applicability and, identifying any standards that are not applicable to certain home/program types.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This new regulation will allow families who foster or adopt children to receive better training and support for managing the children placed in their homes. By doing so, children's placements will become more stable, allowing children the safety and security of a family home within which to reside, while promoting permanency for the child.